

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

Tuesday, January 5, 2021

Hearing Room 1545

10:00 AM

2:15-28353 Alejandra Araujo

Chapter 13

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

GENESIS CONDOMINIUM ASSOC
vs
DEBTOR

Docket 48

Tentative Ruling:

ZoomGov Instructions for all matters on today's calendar:

Meeting ID: 160 335 8822

Password: 518582

Meeting URL: <https://cacb.zoomgov.com/j/1603358822>

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Please connect at least 5 minutes before the start of your hearing, and wait with your microphone muted until your matter is called. You do not need to call Chambers for advance approval. ZoomGov appearances are free.

Time when these tentative rulings were first posted (for purposes of determining when anyone contesting the tentative ruling must notify other parties of intent to do so, per the "Procedures of Judge Bason," posted at www.cacb.uscourts.gov): see the time stamp at the bottom of this page.

Tentative Ruling for In re Araujo [2:15-bk-28353-NB]:

Appearances required.

This Court has reviewed the motion of the homeowners association ("HOA") (dkt.48), Debtor's response (dkt. 61) and the HOA's reply (dkt. 62). The tentative ruling is to grant the motion in part and deny it in part as follows:

(A) no relief from any automatic stay is required because, once the accounting is corrected, the HOA is not attempting to collect a prepetition debt or doing any other act prohibited by 11 U.S.C. 362(a), but

(B) no attorney fees are owed, because the HOA's and/or its agents' own errors have caused the confusion and litigation over these issues.

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Therefore, Debtor has a positive balance on her regular assessments.

The parties are directed to address these issues and, if this Court adopts the tentative ruling as the final ruling, address how that positive balance in Debtor's current accounts should be applied.

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

(1) Factual background

The HOA acknowledges that its own billing statements and records were confused, but now it believes that, if payments are properly applied:

(a) Prepetition arrears have been paid in full

Debtor's chapter 13 plan payments, through the Chapter 13 Trustee, have now paid in full the \$12,464.00 of arrears in assessments that were due as of the petition date. See Motion (dkt.48), p.16:10-13, & Ex.4, at PDF pp.56-57.

(b) Postpetition regular assessments have a positive balance as of 12/10/20, or a slight negative balance *if* the HOA's attorney fees and costs are included

In addition to her chapter 13 plan payments, Debtor made payments on the regular postpetition assessments, and in fact she **overpaid by \$4,626.66** (Motion (dkt.48), Ex.4, at PDF p.63, last line, penultimate column), before including legal fees and costs. Those fees are estimated to be approximately \$4,950.00 as of 12/10/20 (Motion (dkt.48), p.33:16-21), plus an anticipated \$180.00 in costs and additional fees for preparing reply papers and appearing at the hearing. *Id.* **If these specific dollar amounts of fees and costs were included, Debtor would owe approximately \$503.34** as of 12/10/20 ($\$4,950.00 + \$180.00 = \$5,130.00 - \$4,626.66 = \$503.34$). (As noted above, additional fees would be due for the reply papers and hearing; but the tentative ruling is to deny these and the HOA's other demands for attorney fees and costs.)

(c) The postpetition special assessment payments are current (as of 12/20)

Postpetition, approximately 2/2016, the HOA levied a special

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assessment to pay for repairs, in the amount of \$19,938.65 per unit. See Koochek Decl. (dkt.48), pp.30:10-31:3 & Ex.3 (at PDF pp.30-46). Homeowners could either pay that amount in a lump sum or pay over time with interest, in 180 payments of \$153.86 each. See Motion, Ex.3, Loan Amortization Schedule, at PDF pp. 35-38.

The HOA calculates that, if Debtor's payments are properly applied, she has a **positive balance of current payments, as of 12/20, of \$206.98** on account of the postpetition special assessment. See Motion (dkt.48), Ex.4, at PDF p.63 (last line, last column). The HOA calculates that Debtor has made 50 payments (*id.*), and according to the Loan Amortization Schedule that leaves a **special assessment principal balance of \$15,705.18** as of 1/1/21, to be paid in monthly installments of \$153.86 for months 51 through 180. See Motion (dkt.48), Ex.3, Loan Amortization Schedule p.2 (at PDF p.36) (entries for payment nos. 50 & 51).

(2) Analysis

(a) Tentative findings of fact

Debtor does not raise any specific challenges to the HOA's corrected accounting included in the motion papers. Nor has this Court found any errors in that accounting.

The tentative ruling is to accept that accounting for purposes of determining how Debtor's payments should be applied. Therefore, as of 12/10/20, (a) Debtor owes nothing on account of her prepetition arrears, (b) Debtor has a positive balance of \$4,626.66 on account of postpetition regular assessments (not including the HOA's asserted attorney fees and costs), and (c) on the special assessment, Debtor has a positive current balance of \$206.98, with a remaining principal balance of \$15,705.18, to be paid in monthly installments of \$153.86 for months 51 through 180.

(b) Tentative conclusions of law regarding the automatic stay

The automatic stay prohibits any act "to collect, assess, or recover a claim against the debtor that arose before the commencement of the case under this title." 11 U.S.C. 362(a)(6) (emphasis added). But, based on the foregoing findings of fact, the HOA concedes that the prepetition arrears have been paid in full, so this provision of the automatic stay is not implicated.

The HOA also has statutory assessment liens. See Motion (dkt.48) p.15:3-20. The imposition of those liens potentially implicates the automatic stay's prohibition on "any act to create, perfect, or enforce any lien against

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property of the estate" (11 U.S.C. 362(a)(4)) and "any act to obtain possession of property of the estate or of property from the estate or to exercise control over property of the estate." 11 U.S.C. 362(a)(3). In this judicial district, a chapter 13 debtor' property is not re-vested in the debtor upon confirmation, so the automatic stay continues to apply at all relevant times.

But the tentative ruling is that it would be too expansive to interpret the automatic stay as applying to the HOA's postpetition assessments made in the ordinary course of its business and financial affairs. To the contrary, as the HOA points out, postpetition assessments are nondischargeable under 11 U.S.C. 523(a)(16), and it would seem anomalous to make postpetition assessments violate the automatic stay while also making them nondischargeable. Similarly, under 28 U.S.C. 959(b), the bankruptcy estate is supposed to be managed consistent with nonbankruptcy law, and it appears more consistent with that obligation for postpetition assessments made in the ordinary course not to be construed as an affirmative act to obtain possession of, or create or enforce a lien against, estate property, or otherwise violate the cited provisions of the automatic stay. If that were so, chapter 13 debtors and anyone interacting with them could not engage in any of their ordinary transactions without constantly seeking relief from the automatic stay; and it does not seem that Congress could have intended that trap for the unwary and impractical result.

In sum, the tentative ruling is that if postpetition assessments are made in the ordinary course, they do not require relief from the automatic stay of 11 U.S.C. 362(a)(3), (4), or (6). Nor has any party suggested that any other provision of 11 U.S.C. 362(a) applies.

Alternatively, the tentative ruling is to grant retroactive relief by annulling the automatic stay for cause, under 11 U.S.C. 362(d)(1). This relief appears to be appropriate given (x) the lack of clear law on whether the automatic stay applies in these circumstances, (y) the HOA's evidence about its changes in management and confusion regarding the proper application of payments, and (z) the HOA's apparent attempts to correct the accounting and resolve the parties' disputes once it discovered the misapplication of payments, followed quickly by its motion for relief from the automatic stay once the attempted consensual resolution fell apart. See *generally In re Fjeldsted*, 293 B.R. 12 (9th Cir. BAP 2003); and see also *In re Williams*, 323 B.R. 691, 697-702 (9th Cir. BAP 2005) (various issues involving

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annulment, and application of *Fjeldsted*), *aff'd*, 204 Fed.Appx. 582 (9th Cir. 2006), *overruled on other issues, In re Perl*, 811 F.3d 1120 (9th Cir. 2016) (scope of automatic stay).

In sum, given the HOA's corrected accounting, it is not attempting to collect a prepetition debt, nor has it been shown to have engaged in any other act in violation of the automatic stay. Alternatively, annulment is appropriate.

(c) Tentative conclusions of law as to attorney fees

Under sections 6.04.1 and 6.04.2 of the HOA's Declaration of Covenants, Conditions and Restrictions ("CC&Rs"), attorney fees must be "reasonable" and otherwise allowable. Motion (dkt.48), Ex.2, pp.43-45 (PDF pp.23-25). The tentative ruling is that the HOA cannot charge Debtor for its attorney fees because its and/or its agents' own errors have caused the confusion and litigation over the foregoing issues.

(d) The parties' relations and accounting going forward

The parties are directed to address whether the positive balances in Debtor's current accounts for regular and special assessments, as of 12/10/20, should be applied to future monthly payments of regular assessments or the special assessment, or in a lump sum, or should be refunded to Debtor, or applied in some other way.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Alejandra Araujo

Represented By
Jaime A Cuevas Jr.

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CONT... Alejandra Araujo

Chapter 13

Movant(s):

Genesis Condominium Association

Represented By
Alyssa B Klausner

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:19-24336 Sarah VanDerBeets

Chapter 13

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

SUN-TECH TOWNHOMES HOA
vs
DEBTOR

Docket 65

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

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Sarah VanDerBeets

Represented By
Kateryna Bilenka

Movant(s):

SUN-TECH TOWNHOMES HOA

Represented By
Neil B Katz

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 1545

10:00 AM

2:20-12115 **Reymond Ramirez and Elizabeth Ramirez**

Chapter 13

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

WILMINGTON SAVINGS FUND SOCIETY
vs
DEBTOR

Docket 60

Tentative Ruling:

Appearances are not required.

Grant as set forth below.

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

Termination

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

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

Effective date of relief

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

Co-debtor stay

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

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

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CONT... **Reymond Ramirez and Elizabeth Ramirez** **Chapter 13**

by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Reymond Ramirez

Represented By
Erika Luna

Joint Debtor(s):

Elizabeth Ramirez

Represented By
Erika Luna

Movant(s):

Wilmington Savings Fund Society

Represented By
Sean C Ferry
Christopher Giacinto

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:20-13367 Michael Anthony John Nangano

Chapter 13

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

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

Docket 35

Tentative Ruling:

Appearances are not required.

Grant as set forth below.

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

Termination

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

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

Effective date of relief

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

Co-debtor stay

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

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

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CONT... Michael Anthony John Nangano Chapter 13

are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Michael Anthony John Nangano	Represented By Matthew D. Resnik
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Movant(s):

U.S. Bank, N.A., successor trustee to	Represented By Robert P Zahradka
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Trustee(s):

Kathy A Dockery (TR)	Pro Se
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Hearing Room 1545

10:00 AM

2:20-15990 Adrian T Bean

Chapter 13

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

MILL CITY MORTGAGE LOAN TRUST 2018-4
vs
DEBTOR

Docket 34

Tentative Ruling:

Appearances required.

There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 44).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Adrian T Bean

Represented By
Christopher J Langley

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10:00 AM

CONT... Adrian T Bean

Chapter 13

Movant(s):

Mill City Mortgage Loan Trust 2018

Represented By
Sean C Ferry

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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Central District of California
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Hearing Room 1545

10:00 AM

2:20-20448 Elroy Jones, III

Chapter 7

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

HONDA LEASE TRUST
vs
DEBTOR

Docket 12

Tentative Ruling:

Appearances are not required.

Grant.

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

Termination

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

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

Effective date of relief

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

Co-debtor stay

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

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

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CONT... Elroy Jones, III

Chapter 7

are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Elroy Jones III

Represented By
Rory Vohwinkel

Movant(s):

Honda Lease Trust

Represented By
Vincent V Frounjian

Trustee(s):

Jason M Rund (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 1545

10:00 AM

2:20-12318 Kelly L. Norris

Chapter 13

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

WHEELS FINANCIAL GROUP, LLC
vs
DEBTOR

Docket 25

Tentative Ruling:

Appearances are not required.

Grant.

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

Termination

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

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

Effective date of relief

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

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay. If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter

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CONT... Kelly L. Norris

Chapter 13

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Party Information

Debtor(s):

Kelly L. Norris

Represented By
James D. Hornbuckle

Movant(s):

WHEELS FINANCIAL GROUP,

Represented By
Sheryl D Noel

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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10:00 AM

2:20-17525 Nicole R. Prause

Chapter 7

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

DONALD L. HILTON, JR.
vs
DEBTOR

Docket 32

Tentative Ruling:

Continue to 2/9/21 at 10:00 a.m., to allow the parties to attempt to resolve their disputes via mediation. See dkt. 49. Appearances are not required on 1/5/21.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Nicole R. Prause

Represented By
Michael Jay Berger

Movant(s):

Donald L. Hilton, Jr.

Represented By
Jeffrey J Hagen

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CONT... Nicole R. Prause

Chapter 7

Trustee(s):

Elissa Miller (TR)

Pro Se

**United States Bankruptcy Court
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Tuesday, January 5, 2021

Hearing Room 1545

10:00 AM

2:16-26291 Robert Frederick Caballero and Dilva Caballero

Chapter 13

#9.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 12/1/20

US BANK TRUST NATIONAL ASSOC
VS
DEBTOR

Docket 42

*** VACATED *** REASON: APO

Tentative Ruling:

Party Information

Debtor(s):

Robert Frederick Caballero

Represented By
Christine A Kingston

Joint Debtor(s):

Dilva Caballero

Represented By
Christine A Kingston

Movant(s):

US Bank Trust National Association,

Represented By
Arvind Nath Rawal
Arnold L Graff
Dane W Exnowski

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Tuesday, January 5, 2021

Hearing Room 1545

11:00 AM

2:20-19262 Khevin P DeVaughn

Chapter 13

Adv#: 2:20-01655 CYB, LLC, a California limited liability v. DeVaughn et al

#1.00 Status Hearing

RE: [1] Adversary case 2:20-ap-01655. Complaint by CYB, LLC, a California limited liability against Dimitra S DeVaughn, Khevin P DeVaughn. false pretenses, false representation, actual fraud)),(67 (Dischargeability - 523(a)(4), fraud as fiduciary, embezzlement, larceny)),(68 (Dischargeability - 523(a)(6), willful and malicious injury)) (Nussbaum, Lane)

Docket 1

*** VACATED *** REASON: Another summons issued reset 1/12/21 at 11:00 a.m.

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Khevin P DeVaughn

Represented By
Julie J Villalobos

Defendant(s):

Dimitra S DeVaughn

Pro Se

Khevin P DeVaughn

Pro Se

Joint Debtor(s):

Dimitra S DeVaughn

Represented By
Julie J Villalobos

Plaintiff(s):

CYB, LLC, a California limited

Represented By
Lane M Nussbaum

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 1545

11:00 AM

2:19-18202 Rolando A. Bonilla and Maria Bonilla

Chapter 7

#2.00 Hearing

RE: [58] Motion For Sale of Property of the Estate under Section 363(b) - No Fee Notice of Motion and Motion to Approve Assignment Agreement between the Trustee and Debtors for the Trustee's Conveyance of the Estate's Interest in (A) 2014 Mercedes-Benz E550 and (B) 2010 Mercedes-Benz GL450; Memorandum of Points and Authorities; Declaration of Peter J. Mastan; and Exhibits with Proof of Service (Mastan (TR), Peter)

Docket 58

Tentative Ruling:

Grant, subject to overbids at the hearing. Appearances required.

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

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Rolando A. Bonilla

Represented By
W. Derek May

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

Tuesday, January 5, 2021

Hearing Room 1545

11:00 AM

CONT... Rolando A. Bonilla and Maria Bonilla

Chapter 7

Joint Debtor(s):

Maria Bonilla

Represented By
W. Derek May

Trustee(s):

Peter J Mastan (TR)

Pro Se

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

Tuesday, January 5, 2021

Hearing Room 1545

11:00 AM

2:20-17675 Marlon Calderon Yap and Khristobelle Yap

Chapter 7

#3.00 Hrg re: Chapter 7 Trustee's motion for order compelling turnover of estate property and documents

Docket 25

Tentative Ruling:

Grant. Appearances are not required.

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

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Marlon Calderon Yap

Represented By
Kelly L Casado

Joint Debtor(s):

Khristobelle Yap

Represented By
Kelly L Casado

Trustee(s):

John P Pringle (TR)

Represented By

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

Tuesday, January 5, 2021

Hearing Room 1545

11:00 AM

CONT...

Marlon Calderon Yap and Khristobelle Yap

Toan B Chung

Chapter 7

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

Tuesday, January 5, 2021

Hearing Room 1545

1:00 PM

2:20-20909 VEEJ Corp

Chapter 11

#1.00 Status Conference re: Chapter 11 Case

Docket 1

Tentative Ruling:

Appearances required by counsel for the debtor and by Debtor's principal.

(1) Current issues

This Court has reviewed Debtor's status reports (dkt. 20, 21) and the other filed documents and records in this case.

(a) Budget motion

Debtor's status report asserts (dkt.20, p.3, section "B.2.") that no budget motion is required. That is incorrect. Judge Bason requires a budget motion so as to confirm that debtors are not (i) overpaying insiders for alleged services, or (ii) otherwise engaged in transactions that fail the "ordinary course" test (11 U.S.C. 363(b)&(c)) or are otherwise impermissible.

The tentative ruling, unless Debtor's counsel can make a detailed offer of proof sufficient to establish that no budget motion is required, is to set a **deadline of 1/12/21** to file and serve a budget motion. To save costs, Debtor is encouraged to use the form available for individual debtors on the Court's website (www.cacb.uscourts.gov) with appropriate modification suitable for Debtor's business (e.g., striking the word "individual").

(2) Deadlines/dates. This case was filed on 12/13/20. Debtor elected to proceed under Subchapter V.

(a) Bar date: 2/22/21 per General Order 20-01 (70 days after petition date in Subchapter V cases) (DO NOT SERVE any notice: one has already been sent, see dkt.23).

(b) Procedures order: dkt. 3 (timely served, dkt. 6).

(c) Plan/Disclosure Statement*: file by 3/15/21 using the forms required by Judge Bason or, with prior permission, other forms (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).

Note: Although Subchapter V contemplates only a Plan, not a Disclosure Statement, the required form Plan has not yet

**United States Bankruptcy Court
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1:00 PM

CONT...

VEEJ Corp

Chapter 11

been updated to include the disclosures required by Subchapter V (11 U.S.C. 1190), so Judge Bason requires that the form Disclosure Statement be completed as well. 11 U.S.C. 1181(b).
(d) Continued status conference: 2/9/21 at 1:00 p.m., no written status report is required.

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

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

VEEJ Corp

Represented By
Jeffrey S Shinbrot

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

Tuesday, January 5, 2021

Hearing Room 1545

1:00 PM

2:20-20260 33 Quincy Avenue LLC

Chapter 11

#2.00 Hrg re: Application for order authorizing debtor to
employ general bankruptcy counsel

Docket 20

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 3,
1/5/21 at 1:00 p.m.).

Party Information

Debtor(s):

33 Quincy Avenue LLC

Represented By
Michael Jay Berger

Trustee(s):

Susan K Seflin (TR)

Pro Se

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

Tuesday, January 5, 2021

Hearing Room 1545

1:00 PM

2:20-20260 33 Quincy Avenue LLC

Chapter 11

#3.00 Cont'd status conference re: Chapter 11 case
fr. 12/1/20

Docket 1

Tentative Ruling:

Tentative Ruling for 1/5/21:

Continue the Status Conference and grant the employment application as set forth below. Appearances are not required on 1/5/21.

(1) Current issues

(a) Application to employ the Law Offices of Michael J. Berger (dkt. 20, "Application"), supplemental declarations of Michael Berger and Jon Udoff (dkt. 30), order setting hearing & further briefing deadline (dkt. 32), further supplemental declarations (dkt.36)

Grant.

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

(2) Deadlines/dates. This case was filed on 11/16/20.

(a) Bar date: 1/25/21 per General Order 20-01 (70 days after petition date in Subchapter V cases) (DO NOT SERVE any notice: one has already been sent, see dkt.10).

(b) Procedures order: dkt. 6 (timely served, dkt. 12)

(c) Plan/Disclosure Statement*: TBD

(d) Continued status conference: 1/26/21 at 1:00 p.m., to be concurrent with the continued status conference in the related case of Debtor's 50% owner, Residence Group, Inc. (Case No. 2:20-bk-20261-NB).

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

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

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, January 5, 2021

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1:00 PM

CONT... 33 Quincy Avenue LLC

Chapter 11

required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 12/1/20:

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

(1) Current issues

(a) Reassignment?

Debtor's 50% owner, Residence Group, Inc., has filed a bankruptcy petition (Case No. 2:20-bk-20261-BR). See dkt. 20 at PDF p.24 (disclosing 50% ownership interest and bankruptcy case). Ordinarily affiliated cases are assigned to the same bankruptcy judge (usually the judge presiding over the lower numbered case), but the bankruptcy petition in the Residence Group case failed to disclose Debtor's bankruptcy case. See *In re Residence Group, Inc.* (Case No. 2:20-bk-20261-BB), dkt.1, p.2, line 10.

Is there any reason why Judge Bason should not coordinate with Judge Russell about reassignment of one or the other case so that both are before the same judge? Are there any other affiliated bankruptcy cases?

(b) First-Day Motions

Based on this Court's review of Debtor's status reports (dkt. 11 & 13), the tentative ruling is to excuse the usual requirement to file a budget motion (see posted procedures available at www.cacb.uscourts.gov) and other first day motions.

(2) Deadlines/dates. This case was filed on 11/16/20.

(a) Bar date: 1/25/21 per General Order 20-01 (70 days after petition date in Subchapter V cases) (DO NOT SERVE any notice: one

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CONT...

33 Quincy Avenue LLC

Chapter 11

has already been sent, see dkt.10).

(b) Procedures order: dkt. 6 (timely served, dkt. 12)

(c) Plan/Disclosure Statement*: TBD

(d) Continued status conference: 1/5/21 at 1:00 p.m. No written status report required.

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

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

33 Quincy Avenue LLC

Represented By
Michael Jay Berger

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

Tuesday, January 5, 2021

Hearing Room 1545

1:00 PM

2:19-23303 Candelario Lora

Chapter 11

#4.00 Hrg re: Application for payment of:
final fees and/or expenses

Docket 220

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 5,
1/5/21 at 1:00 p.m.).

Party Information

Debtor(s):

Candelario Lora

Represented By
Onyinye N Anyama

**United States Bankruptcy Court
Central District of California
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Tuesday, January 5, 2021

Hearing Room 1545

1:00 PM

2:19-23303 Candelario Lora

Chapter 11

#5.00 Status conference re: Post confirmation
fr. 12/17/19, 1/14/20, 02/18/20, 03/31/20, 4/21/20,
5/5/20, 6/30/20, 7/28/20, 9/1/20, 9/15/20, 9/29/20,
11/12/20

Docket 1

Tentative Ruling:

Tentative Ruling for 1/5/21:

Continue the Status Conference and grant the Application as set forth below.
Appearances are not required on 1/5/21.

(1) Current issues

(a) Anyama Law Firm, APC ("Applicant") first and final fee application (dkt. 220, 221, "Application"), no opposition is on file

The tentative ruling is to conditionally grant the Application approving fees of \$17,520.00 and \$1,514.75 in expenses for a total award of \$19,034.75.

The tentative ruling is also that this order is conditioned on Applicant's filing of a declaration which complies with the requirements of LBR 2016-1(a) (1)(J) no later than **January 12, 2021**.

Proposed order: Debtor is directed to lodge a proposed order on the foregoing application via LOU within 7 days after the hearing date, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 11/16/20.

(a) Bar date: 1/25/21 per General Order 20-01 (70 days after petition date in Subchapter V cases) (DO NOT SERVE any notice: one has already been sent, see dkt.10).

(b) Procedures order: dkt. 6 (timely served, dkt. 12)

(c) Plan/Disclosure Statement*: TBD

(d) Continued status conference: 3/2/21 at 1:00 p.m., to be concurrent with the post-confirmation status conference. No written status

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1:00 PM

CONT...

Candelario Lora

Chapter 11

report is required. This status conference might be vacated, if an application for a final decree is filed and granted prior to that date.

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

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Candelario Lora

Represented By
Onyinye N Anyama

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, January 5, 2021

Hearing Room 1545

1:00 PM

2:20-11333 Edmund Lincoln Anderson

Chapter 11

#6.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 11/10/20, 12/1/20

WILMINGTON SAVINGS FUND SOCIETY, FSB
vs
DEBTOR

Docket 225

Tentative Ruling:

Tentative Ruling for 1/5/21:

Please see the tentative ruling for the status conference (Calendar No. 8, 1/5/21 at 1:00 p.m.).

Tentative Ruling for 12/1/20:

Appearances required.

There is no tentative ruling, but the parties should be prepared to discuss the status of the pending sale of the subject property at 6520-22 Brynhurst Avenue, Los Angeles, CA 90018 (see the stipulation by the parties, dkt. 241).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, January 5, 2021

Hearing Room 1545

1:00 PM

CONT... Edmund Lincoln Anderson

Chapter 11

Debtor(s):

Edmund Lincoln Anderson

Represented By
Stella A Havkin

Movant(s):

Wilmington Savings Fund Society,

Represented By
Lior Katz

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, January 5, 2021

Hearing Room 1545

1:00 PM

2:20-11333 Edmund Lincoln Anderson

Chapter 11

#7.00 Cont'd hrg re: Motion for Order Disallowing the 2014 Assessment for the Tax Year 2009 Set Forth in Proof of Claim Number 5 of the United States of America Internal Revenue Service Pursuant to FRBP 3001(c), 11 U.S.C. Section 502(b)(1) fr. 8/18/20, 11/03/20

Docket 155

Tentative Ruling:

Tentative Ruling for 1/5/21:

Please see the tentative ruling for the status conference (Calendar No. 8, 1/5/21 at 1:00 p.m.).

Party Information

Debtor(s):

Edmund Lincoln Anderson

Represented By
Stella A Havkin

Movant(s):

Edmund Lincoln Anderson

Represented By
Stella A Havkin

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

Tuesday, January 5, 2021

Hearing Room 1545

1:00 PM

2:20-11333 Edmund Lincoln Anderson

Chapter 11

#8.00 Cont'd Status Conference re: Chapter 11 Case
fr. 3/3/20, 3/10/20, 4/7/20, 4/21/20, 6/2/20, 7/14/20,
7/28/20, 8/18/20, 9/1/20, 10/6/20, 10/27/20, 12/1/20

Docket 1

Tentative Ruling:

Tentative Ruling for 1/5/21:

Appearances required.

(1) Current issues

(a) Motion for Wilmington Savings Fund Society, FSB ("Wilmington") for relief from automatic stay (dkt.225); Debtor opposition (dkt.240); Wilmington reply (dkt.259), Interim Order (dkt. 261)

There is no tentative ruling, but the parties are directed to address whether the sale of the subject property has closed and/or whether the mortgage payments provided for in this Court's Interim Order (dkt. 261) have been made.

(b) Motion (Claim Objection) re 2009 taxes in Proof of Claim Number 5 (dkt. 155), Opposition of U.S./IRS (dkt. 268), Debtor's reply (dkt.269)

The tentative ruling is to continue this objection to be concurrent with the continued status conference (see below) and meanwhile direct the parties to meet and confer regarding discovery and a pretrial schedule in approximately the 180-day time frame suggested by the IRS (see Dkt.268, pp.5:27-6:5) and lodge either an agreed scheduling order or, if they cannot agree, separate proposed orders, which this Court will either issue prior to the continued hearing or address at the continued hearing.

(c) Monthly Operating Reports ("MORs") (dkt.267)

From this Court's brief review, it appears that all accounts are labeled "general account." Debtor is directed to address why the accounts are not labeled according to the property to which each one relates.

Debtor appears to show a modest overall growth in income in a single account, on the first page of the latest MORs (dkt.267, p.1). Debtor is

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1:00 PM

CONT... Edmund Lincoln Anderson

Chapter 11

directed to address anticipated future revenues, and whether they are expected to be sufficient to fund a plan.

(d) Amended plan (dkt.251) and Disclosure Statement ("D/S," dkt.250) and blacklines (dkt.253, 252), and request for judicial notice ("RJN," dkt.254)

The tentative ruling is to defer setting a new deadline for any plan or disclosure statement, until Debtor's MORs either show an ability to fund a plan or this case is converted or dismissed.

(2) Deadlines/dates. This case was filed on 2/6/20.

(a) Bar date: 5/1/20 (dkt. 50; timely served, dkt. 55).

(b) Procedures order: dkt. 7 (timely served, dkt.8)

(c) Plan/Disclosure Statement (dkt. 251, 250)*: TBD.

(d) Continued status conference: 2/9/21 at 1:00 p.m. No written status report is required.

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

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Edmund Lincoln Anderson

Represented By
Stella A Havkin

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

Tuesday, January 5, 2021

Hearing Room 1545

2:00 PM

2:18-24302 GL Master Inc

Chapter 7

- #1.00 Second Cont'd Evidentiary Hrg re: Order to Show Cause re: Civil Contempt and Directing (i) Debtor, (ii) Freda Wang, (iii) Thomas Polis, (iv) Lynn Chao, (v) The Law Offices of Lynn Chao to Appear and Show Cause Why This Court Should Not Find Them in Contempt and Impose Sanctions fr. 8/19/20, 9/17/20, 11/3/20, 12/1/20, 12/22/20

Docket 173

Tentative Ruling:

Tentative Ruling for 1/5/21:

Continue to 1/26/21 at 2:00 p.m. for issuance of a Memorandum Decision on the matters taken under submission. Appearances are not required on 1/5/21.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 12/22/20:

Continue to 1/5/21 at 2:00 p.m. for issuance of a Memorandum Decision on the matters taken under submission. Appearances are not required on 12/22/20.

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

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Tuesday, January 5, 2021

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2:00 PM

CONT... GL Master Inc

Chapter 7

required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 12/1/20:

Continue to 12/22/20 at 2:00 p.m. for issuance of a Memorandum Decision on the matters taken under submission. Appearances are not required on 12/1/20.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

GL Master Inc

Represented By
Thomas J Polis

Trustee(s):

Edward M Wolkowitz (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, January 5, 2021

Hearing Room 1545

2:00 PM

2:18-24302 GL Master Inc

Chapter 7

#2.00 Cont'd Order to Show Cause re: Civil Contempt Against
Young Young Food LLC, and For Sanctions
fr. 10/27/20, 12/1/20, 12/22/20

Docket 213

Tentative Ruling:

Tentative Ruling for 1/5/21:

Continue to 1/26/21 at 2:00 p.m. for issuance of a Memorandum Decision on the related matters taken under submission (see calendar no.1, 1/5/21 at 2:00 p.m.). Appearances are not required on 1/5/21.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 12/22/20:

This Court is very troubled by the reported state of discovery (*see, e.g.*, Alleged Employees' Reply, dkt. 264, filed 12/18/20). But this Court believes that the issues can be more productively addressed once this Court issues its Memorandum Decision on the related discovery disputes involving, *inter alia*, Debtor and its law firm, the Law Offices of Lynn Chao. Accordingly, the tentative ruling is to continue this hearing to 1/5/21 at 2:00 p.m. Appearances are not required on 12/22/20.

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

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CONT... GL Master Inc

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wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 12/1/20:
Appearances required.

Current issues

(a) Contempt order (dkt. 237)

(i) Compensatory sanctions

This Court has reviewed the Alleged Employees' time records (dkt. 241). As of the preparation of this tentative ruling, YYF has not filed an opposition.

The tentative ruling is to award fees in the amount of \$12,100 and costs in the amount of \$59.85, for a total compensatory sanction against YYF in the amount of **\$12,159.58**, payable to the Alleged Employees as compensation for the fees and costs they were forced to incur to compel compliance.

(ii) Status of compliance

The parties should be prepared to advise this Court on whether (x) coercive sanctions are appropriate (*i.e.*, whether Young failed to produce all responsive documents by 11/20/20 at 5:00 p.m.); and (y) Young responded to the Alleged Employees' written interrogatories by the 11/25/20 at noon deadline.

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

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www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 10/27/20:
Appearances required.

Current issues

(1) Alleged employees' motion for issuance of order directing Young Young Food LLC ("YYF") to appear for 2004 examination and production of documents (dkt. 146, "2004 Motion"); Order granting 2004 Motion (dkt. 160, "2004 Order"); Alleged employees' motion for issuance of OSC re contempt (dkt. 202, "Motion for OSC"), Order setting hearing on Motion for OSC (dkt. 215, the "OSC"), YYF's opposition papers (dkt. 225, 226, 227), Alleged employees' reply papers (dkt. 228, 230)

The tentative ruling is to find YYF in contempt of court and impose sanctions in an amount to be determined at the hearing and subsequent proceedings, as set forth below.

(a) The alleged employees have made a sufficient showing that YYF violated this Court's 2004 Order and YYF has not responded with argument or evidence establishing that it was impossible to comply

The tentative ruling is to overrule YYF's opposition, grant the Sanctions Motion for the reasons stated in the Alleged Employees' reply papers (dkt. 228, 230), and find that YYF is in contempt of the 2004 Order.

In addition and alternatively, the tentative ruling is that on the merits this Court is not persuaded by YYF's arguments that the (i) 2004 Order is overbroad and (ii) seeks discovery that could and should have been sought in a pending nonbankruptcy proceeding for the same reasons stated in this Court's prior rulings and orders addressing those arguments. See Order (dkt. 173) at PDF p.12, para. "(b)"; Order (dkt. 117) at PDF p.5, para. "(c)"; and Order (dkt. 101) at PDF pp.6-7, para. "(3)."

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(b) Sanctions

(i) Compensatory

The tentative ruling is to grant the Alleged Employees' request for compensatory sanctions to reimburse them for their costs incurred preparing and filing the Sanctions Motion, responding to the OSC, and appearing at this hearing. The tentative ruling is to set **a deadline of 11/5/20** for the Alleged Employees to file and serve a declaration setting forth their time records and expenses, **11/13/20 for any opposition, 11/19/20 for any reply, and a hearing on 12/1/20 at 2:00 p.m.**

(ii) Coercive

The tentative ruling is to award coercive sanctions, in an escalating dollar amount to be addressed at the hearing.

(iii) Examination by written discovery

The tentative ruling is to grant the Alleged Employees' request to obtain written discovery of YYF, *in lieu* of any in person examination out of concerns presented by the risks of COVID-19, by propounding 20 interrogatories on YYF, without prejudice to any follow-up discovery. The parties should be prepared to address what deadlines, if any, this Court should set for serving and responding to the Alleged Employees' interrogatories (or if this Court should defer to the parties to act within the usual procedures).

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

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, all appearances are telephonic via CourtCall at (888) 882-6878.

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GL Master Inc

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Party Information

Debtor(s):

GL Master Inc

Represented By
Thomas J Polis

Trustee(s):

Edward M Wolkowitz (TR)

Pro Se

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2:19-18316 Ashley Susan Aarons

Chapter 11

#3.00 Cont'd hrg re: U.S. Trustee's Motion to Dismiss or Convert Case
fr. 10/15/19, 10/29/19, 12/10/19, 1/14/20, 03/31/20, 4/7/20,
4/21/20, 5/5/20, 6/16/20, 6/30/20, 8/4/20, 9/29/20, 10/14/20,
10/23/20, 11/12/20, 12/8/20, 12/22/20

Docket 65

Tentative Ruling:

Tentative Ruling for 1/5/21:

Please see the tentative ruling for the status conference (Calendar No. 6,
1/5/21 at 2:00 p.m.).

Tentative Ruling for 12/22/20:

Please see the tentative ruling for the status conference (Calendar No. 5,
12/22/20 at 2:00 p.m.).

Tentative Ruling for 12/8/20:

Please see the tentative ruling for the status conference (Calendar No. 11,
12/8/20 at 2:00 p.m.).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Ashley Susan Aarons

Represented By
James C Bastian Jr
Rika Kido

Movant(s):

United States Trustee (LA)

Represented By
Dare Law
Alvin Mar
Ron Maroko

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Chapter 11

Trustee(s):

John-Patrick McGinnis Fritz (TR)

Pro Se

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2:19-18316 Ashley Susan Aarons

Chapter 11

#4.00 Cont'd hrg re: Plan Confirmation and Related Deadlines
fr. 9/29/20, 10/14/20, 10/23/20, 11/12/20, 12/8/20, 12/22/20

Docket 313

Tentative Ruling:

Tentative Ruling for 1/5/21:

Please see the tentative ruling for the status conference (Calendar No. 6, 1/5/21 at 2:00 p.m.).

Tentative Ruling for 12/22/20:

Please see the tentative ruling for the status conference (Calendar No. 5, 12/22/20 at 2:00 p.m.).

Tentative Ruling for 12/8/20:

Please see the tentative ruling for the status conference (Calendar No. 11, 12/8/20 at 2:00 p.m.).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Ashley Susan Aarons

Represented By
James C Bastian Jr
Rika Kido

Trustee(s):

John-Patrick McGinnis Fritz (TR)

Pro Se

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2:19-18316 Ashley Susan Aarons

Chapter 11

#5.00 Cont'd Status Conference re: Chapter 11 Case
fr. 8/20/19, 9/24/19, 10/4/19, 10/15/19, 10/29/19,
11/12/19, 12/10/19, 1/14/20, 03/31/20, 4/7/20,
4/21/20, 5/5/20, 6/16/20, 6/30/20, 8/4/20, 9/29/20,
10/14/20, 10/22/20, 11/12/20, 12/8/20, 12/22/20

Docket 1

Tentative Ruling:

**Tentative Ruling for 1/5/20 (substantially the same as for 10/6/20
[continued per dkt. 339], 10/14/20, 10/22/20, 11/12/20, 12/8/20, 12/22/20
[continued with no change]):**

Appearances required.

(1) Current issues

(a) Motion of the U.S. Trustee ("UST") to dismiss (dkt. 65, "MTD"),
Debtor's opposition (dkt. 86), UST's reply (dkt. 168, 170), Debtor's response
(dkt. 179), Debtor's status report (dkt. 180), stipulation and order re pre-
petition bank account (dkt. 212, 221)

The outcome of this motion may depend on whether this Court confirms Debtor's amended plan.

(b) Debtor's Amended plan (dkt. 313) (see *a/so* Disclosure Statement,
dkt. 311), order setting confirmation hearing (dkt. 317), proof of service of
solicitation package (dkt. 324), Debtor's confirmation brief (dkt. 329), ballot
summary (dkt. 330), objection of Post Acute Care Partners, Inc. ("Post") (dkt.
332), objection of Shiv Raj & Saroj Gupta ("Guptas") (dkt. 333), Debtor's
Reply (dkt. 335)

This Court has reviewed Debtor's latest status report (dkt. 363) regarding the continued delays in obtaining any relief from the stay in the Florida Receivership case. The parties are directed to address whether they will consent to a further continuance.

Debtor is also directed to provide an update regarding any proposed resolutions with the Guptas and others, and any proposed refinancing.

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Chapter 11

(c) MOR (10/31/20, dkt.355)

Debtor is expending substantial sums described only as "marketing."
Debtor is directed to address what is the actual nature of these expenses.

(3) Deadlines/dates. This case was filed on 7/17/19.

(a) Bar date: 12/20/19, dkt. 116 (timely served, dkt. 120)

(b) Procedures order: dkt.9 (timely served, dkt.18)

(c) AmPlan/AmDisclosure Statement*: See above.

(d) Continued status conference: If there are unresolved confirmation issues, this Court anticipates setting either a continued hearing/status conference on 1/26/20 at 2:00 p.m. and/or a further evidentiary hearing (at a date and time to be determined).

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

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[INTERIM TENTATIVE RULINGS OMITTED]

Tentative Ruling for 9/29/20:

Appearances required.

(1) Current issues

(a) Motion of the U.S. Trustee ("UST") to dismiss (dkt. 65, "MTD"),

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debtor's opposition (dkt. 86), UST's reply (dkt. 168, 170), debtor's response (dkt. 179), debtor's status report (dkt. 180), stipulation and order re pre-petition bank account (dkt. 212, 221)

There is no tentative ruling. The outcome of this motion may depend on whether this Court confirms Debtor's amended plan.

(c) Debtor's Amended plan (dkt. 313) (see also Disclosure Statement, dkt. 311), order setting confirmation hearing (dkt. 317), proof of service of solicitation package (dkt. 324), Debtor's confirmation brief (dkt. 329), ballot summary (dkt. 330), objection of Post Acute Care Partners, Inc. ("Post") (dkt. 332), objection of Shiv Raj & Saroj Gupta ("Guptas") (dkt. 333), Debtor's Reply (dkt. 335)

The tentative ruling is that (x) Debtor has adequately addressed Post's objection; (y) Debtor has adequately addressed the non-materiality of her proposed minor modifications to the Plan (*i.e.*, re-balloting is not required); and (z) Debtor has provided sufficient arguments and evidence to overrule most of the Guptas' objections. The Guptas' objections that Debtor has not yet sufficiently addressed are explained below.

(A) Best Interest Test (11 U.S.C. 1129(a)(7)): Debtor's calculations require an adjustment, but even with an adjustment the Guptas have not rebutted Debtor's showing that the Plan satisfies the best interest test

The tentative ruling is that Debtor's alternative liquidation analysis (dkt.335, pp.11-12) should be adjusted to account for the possibility that the secured claim asserted by Patch Of Land ("Patch" or "POL") might be reduced to some extent, based on objections to default interest and other claims by the bankruptcy estate. But the tentative ruling - based on this Court's familiarity with numerous disputes in other cases regarding default rates of interest and other charges - is that the possibility of such reduction, discounted to present value, is less than shortfall in funds that would be available in any hypothetical chapter 7 case. See Debtor's Reply (dkt.335), p.12. See generally, *e.g.*, *East-West Bank v. Altadena Lincoln Crossing, LLC*, 598 B.R. 633 (C.D. Cal. 2019)

The tentative ruling is that a precise dollar estimate is not required because the shortfall is hundreds of thousands of dollars; the discount to Patch's claim would not be greater than that. In other words, even with the adjustment to Patch's claim as described above, there would be \$-0- for

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general unsecured creditors in a hypothetical chapter 7 case.

Alternatively, assuming for the sake of discussion that any adjustments to Debtor's liquidation analysis would be enough to provide any projected recovery for nonpriority unsecured creditors, that in itself does not establish that liquidation would be in the best interests of creditors. Rather, the issue would require further evidence because any such projected chapter 7 recovery still would have to exceed the projected recovery under Debtor's proposed Plan, and the latter requires more evidence (as noted below).

(B) Adequate means for implementation (11 U.S.C. 1123(a)(5)) and feasibility (11 U.S.C. 1129(a)(11))

Debtor is directed to address whether she has evidence of sufficient loan commitments and/or gift commitments from family and friends to make her proposed commitments in the Plan adequate and feasible. See, e.g., Debtor's Reply (dkt.335), p.14:2-8. The parties are directed to address whether any evidentiary hearing will be necessary to address the sufficiency of such evidence, and the possible scheduling of any such evidentiary hearing and any related matters.

(2) Deadlines/dates. This case was filed on 7/17/19.

(a) Bar date: 12/20/19, dkt. 116 (timely served, dkt. 120)

(b) Procedures order: dkt.9 (timely served, dkt.18)

(c) AmPlan/AmDisclosure Statement*: See above.

(d) Continued status conference: If there are unresolved confirmation issues, this Court anticipates setting either a continued hearing/status conference on 10/6/20 at 2:00 p.m. and/or an evidentiary hearing (at a date and time to be determined). Alternatively, if the Plan were to be confirmed at today's hearing, the tentative ruling would be to set a post-confirmation status conference for 1/12/21 at 2:00 p.m.

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

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

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are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, all appearances are telephonic via CourtCall at (888) 882-6878.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Ashley Susan Aarons

Represented By
James C Bastian Jr
Rika Kido

Trustee(s):

John-Patrick McGinnis Fritz (TR)

Pro Se

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10:00 AM

2:16-20827 Gabriel S Fernando

Chapter 13

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

TOWD POINT MORTGAGE TRUST 2020-1
U.S. BANK NATIONAL ASSOC
vs
DEBTOR

Docket 85

Tentative Ruling:

ZoomGov Instructions for all matters on today's calendar:

Meeting ID: 160 056 6881

Password: 862147

Meeting URL: <https://cacb.zoomgov.com/j/1600566881>

Telephone: +1 669 254 5252 or +1 646 828 7666 or 833 568 8864 (Toll Free)

Please connect at least 5 minutes before the start of your hearing, and wait with your microphone muted until your matter is called. You do not need to call Chambers for advance approval. ZoomGov appearances are free.

Time when these tentative rulings were first posted (for purposes of determining when anyone contesting the tentative ruling must notify other parties of intent to do so, per the "Procedures of Judge Bason," posted at www.cacb.uscourts.gov): see the time stamp at the bottom of this page.

Tentative Ruling for In re Fernando [2:16-bk-20827-NB]:

Appearances are not required.

Grant as set forth below.

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

Termination

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

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Gabriel S Fernando

Chapter 13

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

Effective date of relief

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

Co-debtor stay

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

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Gabriel S Fernando

Represented By
Julie J Villalobos

Movant(s):

Towd Point Mortgage Trust 2020-1,

Represented By
Kirsten Martinez

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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CONT... Gabriel S Fernando

Chapter 13

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10:00 AM

2:19-22867 Frederick A. Cordova

Chapter 13

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

HOMEBRIDGE FINANCIAL SERVICES, INC.
vs
DEBTOR

Docket 25

Tentative Ruling:

Appearances required.

There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 27).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Frederick A. Cordova

Represented By
W. Derek May

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CONT... Frederick A. Cordova

Chapter 13

Movant(s):

HomeBridge Financial Services, Inc.

Represented By
Diana Torres-Brito

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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10:00 AM

2:20-11993 Tony Lavell Middleton

Chapter 13

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

WHEELS FINANCIAL GROUP, LLC
vs
DEBTOR

Docket 33

Tentative Ruling:

Appearances required.

There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order or treatment of the arrears owed to Movant in Debtor's proposed chapter 13 plan (see the debtor's response, dkt. 36).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Tony Lavell Middleton

Represented By
Steven A Alpert

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CONT... Tony Lavell Middleton

Chapter 13

Movant(s):

WHEELS FINANCIAL GROUP,

Represented By
Sheryl D Noel

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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10:00 AM

2:20-15695 Alexander Zerkovsky

Chapter 13

#4.00 Hrg re: Motion for Retroactive Relief from Stay and Annulment of the Stay Pursuant to 11 U.S.C. 362(d)

KATHLEEN AND PATRICK STONE
vs
DEBTOR

Docket 39

Tentative Ruling:

Appearances are not required.

Grant, with a caution that in future Movant must use this Court's mandatory forms of motion for relief from the automatic stay.

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

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Alexander Zerkovsky

Represented By

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CONT... Alexander Zerkovsky

Khachik Akhkashian

Chapter 13

Movant(s):

Kathleen and Patrick Stone

Pro Se

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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2:20-18570 Maria Francesca Gayman

Chapter 7

#5.00 Hrg re: Motion in Individual Case for Order Confirming Termination of Stay under 11 U.S.C. 362(j) or That No Stay is in Effect under 11 U.S.C. 362(c)(4)(A)(ii)

U.S. BANK NATIONAL ASSOCIATION
vs
DEBTOR

Docket 11

Tentative Ruling:

Appearances are not required.

Grant as set forth below.

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

The automatic stay does not apply

Grant the motion under 11 U.S.C. 362(c)(3) and (j): there is no automatic stay because (a) Debtor's prior case (#2:19-bk-10241-NB) was dismissed (on 10/29/2019) within one year before this case was filed (on 9/21/20), (b) that dismissal was not under 11 U.S.C. 707(b), and (c) no finding of good faith was timely sought and obtained. The automatic stay has terminated both as to Debtor *in personam* and as to property of Debtor. See *In re Reswick*, 446 B.R. 362 (9th Cir. BAP 2011); *In re Hernandez*, case no. 2:11-bk-53730-NB, docket #40 (Memorandum Decision).

In the alternative and in addition, the tentative ruling is to grant relief from the automatic stay as follows.

Note regarding mootness: Judge Bason's standard tentative ruling is as follows. For three reasons the above tentative ruling that there *is no stay* does not moot requests for relief from whatever stay might apply. First, such

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Courtroom 1545 Calendar**

Tuesday, January 12, 2021

Hearing Room 1545

10:00 AM

CONT... **Maria Francesca Gayman**

Chapter 7

alternative rulings are appropriate because (i) the very nature of *tentative* rulings is that this Court could be persuaded to depart from any one of them, and (ii) a *final* ruling on any one issue could be reversed on appeal. Second, even if there is currently no stay, that could change - e.g., if there is no stay because of dismissal of this bankruptcy case, such dismissal could be vacated and that might reimpose the stay even if there is a lack of adequate protection, or other grounds why the stay should not apply, and therefore the movant will suffer cognizable harm unless the issues are addressed now (Judge Bason regularly vacates dismissals based on stipulations or other good cause). Third, if the motion includes any request for relief as to *past* acts (annulment) or *future* cases (*in rem* relief), those things are still at issue even if there is no *current* automatic stay. See *In re Aheong*, 276 B.R. 233 (9th Cir. BAP 2002). For all of these reasons, the tentative ruling is that it is appropriate to address the following issues.

Termination

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

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

Effective date of relief

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

Co-debtor stay

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

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

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CONT... **Maria Francesca Gayman**

Chapter 7

COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Maria Francesca Gayman

Represented By
Brad Weil

Movant(s):

U.S. Bank National Association as

Represented By
Diane Weifenbach

Trustee(s):

Wesley H Avery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Courtroom 1545 Calendar**

Tuesday, January 12, 2021

Hearing Room 1545

10:00 AM

2:20-21157 Bianca Flora Avenia

Chapter 13

#6.00 Hrg re: Motion in Individual Case for Order
Imposing a Stay or Continuing the Automatic
Stay as the Court Deems Appropriate

Docket 12

Tentative Ruling:

Appearances required.

Grant, subject to (1) any opposition at the hearing, (2) the following conditions and (3) denial of all attorney fees related to the motion, due to counsel's failure to serve all of the parties directed by this Court's order (dkt.22) shortening time. See POS (dkt.24)

After the hearing date this Court will prepare an order and the tentative ruling is to include the following language in that order:

The stay of 11 U.S.C. 362(a) applies subject to the following modifications and conditions:

(1) Service and reconsideration. Any party in interest who was not timely served in accordance with FRBP 7004 (incorporated by FRBP 9014(b)) is hereby granted through 14 days after proper service to seek reconsideration, including retroactive relief (under FRBP 9023 and/or 9024). Any such person (a) may set a hearing on 14 days' notice, (b) may appear by telephone (if arrangements are made per Judge Bason's posted procedures), and (c) may present all arguments orally at the hearing (*i.e.*, no written argument is required). If written arguments appear necessary then this court will set a briefing schedule at the hearing.

(2) Reasons. (a) It appears appropriate to impose the automatic stay, and to impose it as to all persons rather than just as to selected persons, because one purpose of the automatic stay is to preventing a "race to collect" that could unfairly advantage some creditors at the expense of others. (b) To prevent possible abuse, this Court provides the foregoing simple process for reconsideration.

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CONT...

Bianca Flora Avenia

Chapter 13

(3) Very limited ruling. This Court's tentative ruling to grant the foregoing relief is solely for purposes of this motion, and is not intended to have any binding effect with respect to any future assertions by any party in interest regarding the existence or lack of existence of good faith in any other context.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Bianca Flora Avenia

Represented By
Madhu Kalra

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, January 12, 2021

Hearing Room 1545

10:00 AM

2:17-23156 Robin Kashmire Roane

Chapter 13

#7.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 12/8/20

U.S. BANK TRUST NATIONAL ASSOC
vs
DEBTOR

Docket 38

Tentative Ruling:

Tentative Ruling for 1/12/21:
Appearances required.

Based on the arguments and representations of the parties at the hearing on 12/8/20, this Court continued this matter to this date to allow time for Debtor to seek a forbearance. There is no tentative ruling, but the parties should be prepared to update this Court on the status of those efforts.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 12/8/20:
Appearances required.

There is no tentative ruling, but the parties should be prepared to address (a)

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CONT... **Robin Kashmire Roane**

Chapter 13

whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 40).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Robin Kashmire Roane

Represented By
Barry E Borowitz

Movant(s):

U.S. Bank Trust National

Represented By
Merdaud Jafarnia
Jennifer C Wong
JaVonne M Phillips

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, January 12, 2021

Hearing Room 1545

10:00 AM

2:19-12991 Diana Eugenia Rojas

Chapter 13

#8.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 7/28/20, 9/15/20, 10/27/20, 12/8/20

CARRINGTON MORTGAGE SERVICES, LLC
vs
DEBTOR

Docket 37

***** VACATED *** REASON: Withdrawal of Motion Filed on 12/31/20
(Dkt. 85)**

Tentative Ruling:

Party Information

Debtor(s):

Diana Eugenia Rojas

Represented By
Anthony Obehi Egbase

Movant(s):

CARRINGTON MORTGAGE

Represented By
Diana Torres-Brito
Julian T Cotton

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

10:00 AM

2:19-14249 Aquita Winslow

Chapter 13

#9.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 8/4/20, 9/1/20, 11/10/20, 12/8/20

HSBC BANK USA, NA
vs
DEBTOR

Docket 37

Tentative Ruling:

Tentative Ruling for 1/12/21:
Appearances required.

At the hearing on 12/8/20 this matter was continued to allow the parties to address an alleged shortfall in the proceeds received for the sale of the property. There is no tentative ruling, however the parties should be prepared to discuss the status of their investigation.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 12/8/20:
Appearances required.

At the hearing on 11/10/20 this matter was continued for Debtor to close the

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10:00 AM

CONT... Aquita Winslow

Chapter 13

proposed sale of the subject property. See dkt.47. Has that sale closed?

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 11/10/20:

Appearances required. At the hearing on 9/1/20 this matter was continued for Debtor to close the proposed sale of the subject property. See dkt.47. Has that sale closed?

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, all appearances are telephonic via CourtCall at (888) 882-6878.

Tentative Ruling for 9/1/20:

Grant as set forth below because as of the drafting of this tentative ruling, Debtor has not filed a motion to sell the property as proposed in her opposition (dkt. 40) and at the 8/4/20 hearing. Appearances are not required. If you wish to dispute the tentative ruling you must notify other parties of your intent to appear telephonically.

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10:00 AM

CONT... Aquita Winslow

Chapter 13

Pursuant to Judge Bason's COVID19 Procedures, **ONLY TELEPHONIC APPEARANCES WILL BE PERMITTED** until further notice. Please contact CourtCall at (888) 882-6878 to make arrangements for any telephonic appearance. There is no need to contact the Court for permission. Parties who are not represented by an attorney will be able to use CourtCall for free through 9/30/20. Attorneys will receive a 25% discount (for more information, see www.cacb.uscourts.gov, "Judges," "Bason, N.," "Telephonic Instructions").

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

Termination

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

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

Effective date of relief

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

Co-debtor stay

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

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

Tentative Ruling for 8/4/20:

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Hearing Room 1545

10:00 AM

CONT... Aquita Winslow
Appearances required.

Chapter 13

Pursuant to Judge Bason's COVID19 Procedures, **ONLY TELEPHONIC APPEARANCES WILL BE PERMITTED** until further notice. Please contact CourtCall at (888) 882-6878 to make arrangements for any telephonic appearance. There is no need to contact the Court for permission. Parties who are not represented by an attorney will be able to use CourtCall for free through 8/31/20. Attorneys will receive a 25% discount (for more information, see www.cacb.uscourts.gov, "Judges," "Bason, N.," "Telephonic Instructions").

There is no tentative ruling, but the parties should be prepared to address the issues raised in Debtor's response (dkt. 40).

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

Party Information

Debtor(s):

Aquita Winslow

Represented By
Elena Steers

Movant(s):

HSBC BANK USA, N.A

Represented By
Sean C Ferry
Eric P Enciso

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 1545

10:00 AM

2:19-16545 Bianca Marie Aranda

Chapter 13

#10.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 9/29/20, 11/10/20, 12/22/20

PENNYMAC LOAN SERVICES, LLC
vs
DEBTOR

Docket 52

Tentative Ruling:

Tentative Ruling for 1/12/21:
Appearances required.

At the 12/22/20 hearing, the Court was persuaded to continue the hearing to allow the debtor to provide evidence of the forbearance application, evidence of sufficient equity in the property to support a finding of adequate protection, and/or motion for authority to sell the subject property. Debtor has now provided a real estate broker's price opinion (dkt.58, the "BPO") estimating the property's value at \$413,000. According to Debtor's prior calculations, that would result in an equity cushion of over \$100,000.

Although BPOs are not the best evidence of value, they are some evidence, and based on the apparent equity cushion the tentative ruling is that there is adequate protection of the movant's interest in the property to warrant additional time for Debtor (a) to seek a forbearance agreement, (b) to attempt to negotiate repayment of the postpetition arrears over a period of months pursuant to an adequate protection order ("APO"), (c) to attempt to modify the confirmed chapter 13 plan to address both prepetition and postpetition arrears, (d) to attempt to sell the subject property, or (e) to address the defaults and pre- and postpetition arrears in some other way. The inclusion of each of the foregoing hypothetical alternatives should not be construed as a ruling that any one of them would be acceptable in this particular case. The parties are directed to address whether Debtor realistically can pursue one or more alternatives, and how long a continuance this Court should provide for that, and/or for Movant to obtain its own valuation of the subject property, and/or for any other course of action by

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CONT... **Bianca Marie Aranda**
either party.

Chapter 13

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 12/22/20:
Appearances required.

At the 11/10/20 hearing, the Court was persuaded to continue the hearing to allow the parties an opportunity to negotiate a forbearance. There is no tentative ruling, but the parties should be prepared to address the status of those negotiations.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 11/10/20 (same as for 9/29/20):

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Central District of California
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Tuesday, January 12, 2021

Hearing Room 1545

10:00 AM

CONT... **Bianca Marie Aranda**
Appearances required.

Chapter 13

There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 54).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, all appearances are telephonic via CourtCall at (888) 882-6878.

Party Information

Debtor(s):

Bianca Marie Aranda

Represented By
William G Cort

Movant(s):

PennyMac Loan Services, LLC

Represented By
Megan E Lees
Robert P Zahradka
Christina J Khil
Josephine E Salmon

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, January 12, 2021

Hearing Room 1545

10:00 AM

2:19-20496 Martha E Rodriguez

Chapter 13

#11.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 12/1/20

NEW REZ LLC
vs
DEBTOR

Docket 79

Tentative Ruling:

Tentative Ruling for 1/12/21:
Appearances required.

Based on the arguments and representations of the parties at the hearing on 12/1/20, this Court continued the matter to this date to allow time for Debtor to address unexpected delays with escrow closing on the sale of Debtor's property. There is no tentative ruling, but Debtor should be prepared to provide an update on where things stand and, if the sale has not yet closed, the anticipated date of closing.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 12/1/20:
Appearances required.

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10:00 AM

CONT... Martha E Rodriguez

Chapter 13

On 11/2/20, this Court entered an order granting debtor's motion to sell the subject property (dkt. 76, dkt. 82), which - as stated in Debtor's response (dkt.84) to the present motion - contemplates paying off Movant's claim in full. Dkt. 76, p.2, para. "3" & Ex.C, p.2. There is no tentative ruling, but Debtor should be prepared to update this Court on the anticipated date of closing.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Martha E Rodriguez

Represented By
Scott Kosner

Movant(s):

NewRez LLC d/b/a Shellpoint

Represented By
Daniel K Fujimoto
Kristin A Zilberstein
Cassandra J Richey

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, January 12, 2021

Hearing Room 1545

10:00 AM

2:20-17800 Ana Maria Ahmad

Chapter 13

#12.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 12/8/20

KESWICK FINANCIAL GROUP, INC.
vs
DEBTOR

Docket 22

Tentative Ruling:

Tentative Ruling for 1/12/21:
Appearances required.

Based on the arguments and representations of the parties at the hearing on 12/8/20, this Court continued this matter to this date to allow time for the parties to continue negotiating the terms of an adequate protection stipulation. There is no tentative ruling, but the parties should be prepared to update this Court on the status of those negotiations (if any).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 12/8/20:
Appearances required.

**United States Bankruptcy Court
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10:00 AM

CONT... Ana Maria Ahmad

Chapter 13

There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 29).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Ana Maria Ahmad

Represented By
Rabin J Pournazarian

Movant(s):

Keswick Financial Group, Inc.

Represented By
Arnold L Graff

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Tuesday, January 12, 2021

Hearing Room 1545

10:00 AM

2:19-25218 Katrina Moss

Chapter 13

#13.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 10/27/20, 12/1/20

MEB LOAN TRUST IV
vs
DEBTOR

Docket 32

Tentative Ruling:

Tentative Ruling for 1/12/21:
Appearances required.

Based on the arguments and representations of the parties at the hearing on 12/1/20, this Court continued this matter to this date to allow time for the parties to negotiate the terms of an adequate protection stipulation. There is no tentative ruling, but the parties should be prepared to provide an update on the status of those negotiations.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 12/1/20:
Appearances required.

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

Tuesday, January 12, 2021

Hearing Room 1545

10:00 AM

CONT... Katrina Moss

Chapter 13

Based on the arguments and representations of the parties at the hearing on 10/27/20, this Court continued the matter to this date to allow time for the parties to review their accounting. There is no tentative ruling, but the parties should be prepared to update this Court on the status of their investigations.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 10/27/20:
Appearances required.

There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 44).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, all appearances are telephonic via CourtCall at (888) 882-6878.

Party Information

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

Tuesday, January 12, 2021

Hearing Room 1545

10:00 AM

CONT... Katrina Moss

Chapter 13

Debtor(s):

Katrina Moss

Represented By
Barry E Borowitz

Movant(s):

MEB Loan Trust IV, as serviced by

Represented By
Austin P Nagel

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Tuesday, January 12, 2021

Hearing Room 1545

11:00 AM

2:20-18465 Jeremy Daniel Kintner

Chapter 13

Adv#: 2:20-01656 Kintner v. State of California Department of Tax and Fee Admi

#1.00 Status conference re: Complaint to redetermine purported tax liability, to recover overpaid amounts, and to determine dischargeability of any amount otherwise due

Docket 1

Tentative Ruling:

Continue to 1/26/21 at 2:00 p.m. to be held contemporaneously with the hearing on the defendant's motion to dismiss (dkt. 4). Appearances are not required on 1/12/21.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Jeremy Daniel Kintner

Represented By
David S Hagen

Defendant(s):

State of California Department of

Pro Se

Plaintiff(s):

Jeremy Daniel Kintner

Represented By

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

Tuesday, January 12, 2021

Hearing Room 1545

11:00 AM

CONT... Jeremy Daniel Kintner

Mark Bernsley

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Tuesday, January 12, 2021

Hearing Room 1545

11:00 AM

2:20-19262 Khevin P DeVaughn

Chapter 13

Adv#: 2:20-01655 CYB, LLC, a California limited liability v. DeVaughn et al

#2.00 Status conference re: Complaint to declare debt non-dischargeable pursuant to 11 U.S.C. sections 523(a)(2, 4, 6)

Docket 1

Tentative Ruling:

Appearances required.

(A) Current issues

(1) Late Status Report (adv.dkt.7)

The parties' status report was very late. The parties are cautioned that future failure to meet deadlines may result in adverse consequences.

(2) Amended complaint?

In the Status Report the statement is made:

Comstock Brewing Company, a California Corporation, has been named as defendant in this adversary. However, it is not in bankruptcy and, therefore, a complaint to determine dischargeability of any obligation owing from Comstock Brewing is inappropriate. Comstock Brewing has not filed a response and will not file a response. [Status Report (adv.dkt.7), p.2]

What is Plaintiff's intent regarding these issues? Does this Court need to set any deadlines or procedures relating to these issues?

(3) Related motions?

The Status Report also states (adv.dkt.7, p.2): "There are motions addressed to Claims Documents pending." What does that mean? No such motions appear to have been filed, based on this Court's review of the docket in both the main case (Case No. 2:20-bk-19262-NB) and this adversary proceeding.

(B) Standard requirements

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, January 12, 2021

Hearing Room 1545

11:00 AM

CONT... Khevin P DeVaughn
conference.)

Chapter 13

(1) Venue/jurisdiction/authority

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

(2) Mediation

Is there is any reason why this Court should not order the parties to mediation before one of the volunteer mediators (*not* a Bankruptcy Judge), and meanwhile set the deadlines set forth below? The tentative ruling is to set a **deadline of 1/26/21** for the parties to lodge a proposed mediation order (the parties are directed to use the time between now and that deadline to find a mutually agreeable mediator whose schedule can accommodate the needs of this matter; and if the parties cannot even agree on a mediator they may lodge separate orders and Judge Bason will chose among them, or issue his own order).

(3) Deadlines

This adversary proceeding has been pending since 11/3/20. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Joinder of parties/amendment of pleadings-deadline: 3/30/21

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, January 12, 2021

Hearing Room 1545

11:00 AM

CONT...

Khevin P DeVaughn

Chapter 13

Discovery cutoff (for completion of discovery): 4/13/21

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

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

Dispositive motions to be heard no later than: 6/1/21

Joint Status Report: 5/18/21.

Continued status conference: 6/1/21 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers, including direct testimony by declaration unless excused: TBD

Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Khevin P DeVaughn

Represented By
Julie J Villalobos

Defendant(s):

Dimitra S DeVaughn

Pro Se

Khevin P DeVaughn

Pro Se

Comstock Brewing Company,a

Pro Se

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

Tuesday, January 12, 2021

Hearing Room 1545

11:00 AM

CONT... Khevin P DeVaughn

Chapter 13

Joint Debtor(s):

Dimitra S DeVaughn

Represented By
Julie J Villalobos

Plaintiff(s):

CYB, LLC, a California limited

Represented By
Lane M Nussbaum

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Tuesday, January 12, 2021

Hearing Room 1545

1:00 PM

2:20-12166 **Olinda Esperanza Lytle**

Chapter 11

#1.00 Status Conference re: Post confirmation
fr. 03/31/20, 4/21/20, 6/2/20, 6/16/20, 6/30/20,
7/28/20, 9/29/20, 11/10/20

Docket 1

Tentative Ruling:

Tentative Ruling for 1/12/21:
Appearances required.

(1) Current issues

(a) Missing status report

This Court's order confirming Debtor's Plan (dkt. 113) directed Debtor to file a post-confirmation status report by no later than 12/29/20 (*id.*, p.3:2-4). As of the preparation of this tentative ruling, no status report is on file. Why not?

(2) Deadlines/dates

This case was filed on 2/26/20, and Debtor's plan was confirmed on 9/29/20 (dkt. 113). The tentative ruling is to set a further continued Status Conference for 3/2/21 at 1:00 p.m. with a brief status report due 2/16/21.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

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

Tuesday, January 12, 2021

Hearing Room 1545

1:00 PM

CONT... **Olinda Esperanza Lytle**

Chapter 11

Tentative Ruling for 11/10/20:

Continue to 1/12/21 at 1:00 p.m., *brief* post-confirmation status report due 12/29/20. Appearances are not required on 11/10/20.

(1) Current issues

(a) Anyama Law Firm's final fee application (dkt. 117, 118, 121), no opposition is on file

Approve Anyama Law Firm's request for \$10,680 in fees and \$601.55 in expenses, for a total final fee award of \$11,281.55, subject to Applicant submitting a declaration that complies with LBR 2016-1(a)(1)(J) within 7 days after the hearing.

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

(2) Deadlines/dates

This case was filed on 2/26/20, and Debtor's plan was confirmed on 9/29/20 (dkt. 113).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, all appearances are telephonic via CourtCall at (888) 882-6878.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Olinda Esperanza Lytle

Represented By
Onyinye N Anyama

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

Tuesday, January 12, 2021

Hearing Room 1545

2:00 PM

2:19-10552 Attitude Marketing, Inc.

Chapter 7

Adv#: 2:20-01147 Gonzalez v. MacMillan et al

- #1.00** Pretrial Conference re: Complaint 1. Actual Fraudulent Transfer [Bankruptcy Code Section 548(1)(a); Cal. Civ.Code Section 3439.04(A)(1) 2. Constructive Fraudulent Transfer [Bankruptcy Code Section 548(1)(b); Cal. Civ. Code Sections 3439.04(B)(2) and 3439.05] 3. To Recover Shareholder Loans 4. For Money Had and Received 5. To Avoid Preferential Payments (11 U.S.C. Section 547) fr. 9/1/20, 12/1/20

Docket 1

Tentative Ruling:

Tentative Ruling for 1/12/21:

Continue as set forth below. Appearances are not required on 1/12/21.

(A) Current issues

Following the initial status conference on 9/1/20, and based on the parties' representations that this matter was straightforward, this Court set a pretrial conference for 11/10/20, which was further continued to 12/1/20 and then to this date. Based on this Court's review of the parties' joint status report (adv.dkt. 5) and the other filed documents and records in this adversary proceeding, it appears the parties were not able to resolve this dispute through a global settlement and that they now seek additional time for discovery and other matters.

Accordingly, the tentative ruling is to treat this hearing as a status conference and direct Plaintiff to lodge a scheduling order consistent with the dates and deadlines set forth in Section "(B)(3)" below.

(B) Standard requirements

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority

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

Tuesday, January 12, 2021

Hearing Room 1545

2:00 PM

CONT...

Attitude Marketing, Inc.

Chapter 7

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (adv.dkt. 5).

(2) Mediation [Intentionally omitted].

(3) Deadlines

This adversary proceeding has been pending since 6/30/20. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Joinder of parties/amendment of pleadings-deadline: 5/18/21

Discovery cutoff (for completion of discovery): 6/1/21

Expert(s) - deadline for reports: 6/8/21

Expert(s) - discovery cutoff (if different from above): 6/15/21

Dispositive motions to be heard no later than: 8/3/21

Joint Status Report: 7/20/21.

Continued status conference: 8/3/21 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers, including direct testimony by declaration unless excused: TBD

Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

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

Tuesday, January 12, 2021

Hearing Room 1545

2:00 PM

CONT... Attitude Marketing, Inc.

Chapter 7

Party Information

Debtor(s):

Attitude Marketing, Inc.

Represented By
James A Dumas Jr
Christian T Kim

Defendant(s):

David MacMillan

Represented By
Robert S Altagen

Cynthia Barrett Martin

Represented By
Robert S Altagen

Plaintiff(s):

Rosendo Gonzalez

Represented By
James A Dumas Jr
Christian T Kim

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
Christian T Kim
James A Dumas Jr

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

Thursday, January 21, 2021

Hearing Room 1545

8:30 AM

2:15-28488 Bernardo Manzano Reyes

Chapter 13

#1.00 Hrg re: Motion under Local Bankruptcy Rule 3015-1 (n)
and (w) to modify plan or suspend plan payments

Docket 63

Tentative Ruling:

ZoomGov Instructions for all matters on today's calendar:

Meeting ID: 160 587 6351

Password: 974571

Meeting URL: <https://cacb.zoomgov.com/j/1605876351>

Telephone: +1 669 254 5252 or +1 646 828 7666 or 833 568 8864 (Toll Free)

Please connect at least 5 minutes before the start of your hearing, and wait with your microphone muted until your matter is called. You do not need to call Chambers for advance approval. ZoomGov appearances are free.

Time when these tentative rulings were first posted (for purposes of determining when anyone contesting the tentative ruling must notify other parties of intent to do so, per the "Procedures of Judge Bason," posted at www.cacb.uscourts.gov): see the time stamp at the bottom of this page.

Tentative Ruling for In re Reyes [2:15-bk-28488-NB]:

Appearances required, absent either (1) an agreement with the Chapter 13 Trustee's office to further continue this matter or (2) withdrawal of the motion by Debtor. There is no tentative ruling, but the parties should be prepared to address the issues raised by the Chapter 13 Trustee (dkt. 71).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov

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

Thursday, January 21, 2021

Hearing Room 1545

8:30 AM

CONT... **Bernardo Manzano Reyes** Chapter 13

instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Bernardo Manzano Reyes

Represented By
Thomas B Ure

Movant(s):

Bernardo Manzano Reyes

Represented By
Thomas B Ure

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Thursday, January 21, 2021

Hearing Room 1545

8:30 AM

2:17-11894 Carlos Alonso Montero

Chapter 13

#2.00 Hrg re: Motion under Local Bankruptcy Rule 3015-1 (n)
and (w) to modify plan or suspend plan payments

Docket 70

Tentative Ruling:

Appearances required, absent either (1) an agreement with the Chapter 13 Trustee's office to further continue this matter or (2) withdrawal of the motion by Debtor. There is no tentative ruling, but the parties should be prepared to address the issues raised by the Chapter 13 Trustee (dkt. 72).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Carlos Alonso Montero

Represented By
Jacqueline D Serrao

Movant(s):

Carlos Alonso Montero

Represented By
Jacqueline D Serrao

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Thursday, January 21, 2021

Hearing Room 1545

8:30 AM

CONT... Carlos Alonso Montero

Chapter 13

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

Thursday, January 21, 2021

Hearing Room 1545

8:30 AM

2:17-17280 Roy Gutierrez

Chapter 13

#3.00 Hrg re: Motion under Local Bankruptcy Rule 3015-1 (n)
and (w) to modify plan or suspend plan payments

Docket 32

Tentative Ruling:

Appearances required, absent either (1) an agreement with the Chapter 13 Trustee's office to further continue this matter or (2) withdrawal of the motion by Debtor. There is no tentative ruling, but the parties should be prepared to address the issues raised by the Chapter 13 Trustee (dkt. 37).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Roy Gutierrez

Represented By
Michael V Jehdian

Movant(s):

Roy Gutierrez

Represented By
Michael V Jehdian

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Thursday, January 21, 2021

Hearing Room 1545

8:30 AM

CONT... Roy Gutierrez

Chapter 13

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

Thursday, January 21, 2021

Hearing Room 1545

8:30 AM

2:19-15571 Stephanie Oliver

Chapter 13

#4.00 Hrg re: Motion under Local Bankruptcy Rule 3015-1 (n)
and (w) to modify plan or suspend plan payments

Docket 38

*** VACATED *** REASON: Withdrawn [dkt. 43]

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Stephanie Oliver

Represented By
Devin Sawdayi

Movant(s):

Stephanie Oliver

Represented By
Devin Sawdayi

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Thursday, January 21, 2021

Hearing Room 1545

8:30 AM

2:19-17669 Rafael Macias and Silvia Jauregui

Chapter 13

#5.00 Hrg re: Motion under Local Bankruptcy Rule 3015-1 (n) and (w) to modify plan or suspend plan payments

Docket 72

Tentative Ruling:

Appearances are not required.

Grant per the Chapter 13 Trustee's Amended Comments (dkt. 79).

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

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Rafael Macias

Represented By
Kevin T Simon

Joint Debtor(s):

Silvia Jauregui

Represented By
Kevin T Simon

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

Thursday, January 21, 2021

Hearing Room 1545

8:30 AM

CONT... Rafael Macias and Silvia Jauregui

Chapter 13

Movant(s):

Rafael Macias

Represented By
Kevin T Simon

Silvia Jauregui

Represented By
Kevin T Simon
Kevin T Simon

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Thursday, January 21, 2021

Hearing Room 1545

8:30 AM

2:20-10178 Judith Gonzalez

Chapter 13

#6.00 Hrg re: Motion under Local Bankruptcy Rule 3015-1 (n)
and (w) to modify plan or suspend plan payments

Docket 69

Tentative Ruling:

Appearances required, absent either (1) an agreement with the Chapter 13 Trustee's office to further continue this matter or (2) withdrawal of the motion by Debtor. There is no tentative ruling, but the parties should be prepared to address the issues raised by the Chapter 13 Trustee (dkt. 73) and 2nd Chance Mortgages Inc. (dkt. 71).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Judith Gonzalez

Represented By
Sunita N Sood

Movant(s):

Judith Gonzalez

Represented By
Sunita N Sood

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Central District of California
Los Angeles
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Thursday, January 21, 2021

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8:30 AM

CONT... Judith Gonzalez

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Thursday, January 21, 2021

Hearing Room 1545

8:30 AM

2:19-24941 Suzanne Coleman

Chapter 13

#7.00 Hrg re: Debtor's Motion to Avoid Junior Lien
on principal residence [11 U.S.C. section 506(d)]

Docket 37

Tentative Ruling:

Appearances are not required.
Grant.

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

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Suzanne Coleman

Represented By
Joseph L Pittera

Movant(s):

Suzanne Coleman

Represented By
Joseph L Pittera

**United States Bankruptcy Court
Central District of California
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8:30 AM

CONT... Suzanne Coleman

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Courtroom 1545 Calendar**

Thursday, January 21, 2021

Hearing Room 1545

8:30 AM

2:15-28353 Alejandra Araujo

Chapter 13

#8.00 Hrg re: Objection to Discharge Filed by Secured Creditor
Genesis Condominium Association

Docket 49

Tentative Ruling:

Sustain the objection (dkt. 49) to Debtor's flagrantly false certification under penalty of perjury that she is eligible for a discharge (dkt. 46, p.1, para.8), which Debtor now admits is false. See Notice re Ineligibility (dkt.7) and Debtor's reply (dkt. 63). Appearances required.

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

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Alejandra Araujo

Represented By
Jaime A Cuevas Jr.

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Hearing Room 1545

8:30 AM

CONT... Alejandra Araujo

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Thursday, January 21, 2021

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8:30 AM

2:15-28353 Alejandra Araujo

Chapter 13

#8.10 Cont'd hrg re: Motion for relief from stay [RP]
fr. 1/5/21

GENESIS CONDOMINIUM ASSOC
vs
DEBTOR

Docket 48

Tentative Ruling:

Tentative Ruling for 1/21/21:
Appearances required.

At the 1/5/21 hearing, this Court was persuaded to continue the hearing to allow the parties to meet and confer on the appropriate disposition of the funds being held by the HOA and the attorney fee issues. Attorney fees are only indirectly at issue: the question is whether this Court should grant relief from the automatic stay, to the extent (if any) that the stay applies, for the HOA to enforce its claim for postpetition attorney fees.

This Court's oral tentative ruling at the hearing on 1/5/21 was that the HOA bears more responsibility than Debtor for the attorney fees relating to this motion for relief from the automatic stay, because it is the HOA's confused accounting that caused most of the attorney fees (although some of that confusion was due to Debtor not properly informing the HOA when this bankruptcy case was filed). On the other hand, this Court's oral tentative ruling was that Debtor bears some responsibility for not clarifying that (a) she is not attempting any discharge at all (because she is ineligible for one) (see dkt. 7), and in particular (b) she is not attempting to discharge the balance owed to the HOA on its special assessment lien, or on any attorney fees or other charges.

There is no further tentative ruling at this time, but the parties should be prepared to address the status of their discussions and, if they have not resolved their issues, then argue the issues to this Court.

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

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Chapter 13

wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 1/5/21:

ZoomGov Instructions for all matters on today's calendar:

Meeting ID: 160 335 8822

Password: 518582

Meeting URL: <https://cacb.zoomgov.com/j/1603358822>

Telephone: +1 669 254 5252 or +1 646 828 7666 or 833 568 8864 (Toll Free)

Please connect at least 5 minutes before the start of your hearing, and wait with your microphone muted until your matter is called. You do not need to call Chambers for advance approval. ZoomGov appearances are free.

Time when these tentative rulings were first posted (for purposes of determining when anyone contesting the tentative ruling must notify other parties of intent to do so, per the "Procedures of Judge Bason," posted at www.cacb.uscourts.gov): see the time stamp at the bottom of this page.

Tentative Ruling for In re Araujo [2:15-bk-28353-NB]:

Appearances required.

This Court has reviewed the motion of the homeowners association ("HOA") (dkt.48), Debtor's response (dkt. 61) and the HOA's reply (dkt. 62). The tentative ruling is to grant the motion in part and deny it in part as follows:

(A) no relief from any automatic stay is required because, once the accounting is corrected, the HOA is not attempting to collect a prepetition debt or doing any other act prohibited by 11 U.S.C. 362(a), but

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Alejandra Araujo

Chapter 13

(B) no attorney fees are owed, because the HOA's and/or its agents' own errors have caused the confusion and litigation over these issues. Therefore, Debtor has a positive balance on her regular assessments.

The parties are directed to address these issues and, if this Court adopts the tentative ruling as the final ruling, address how that positive balance in Debtor's current accounts should be applied.

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

(1) Factual background

The HOA acknowledges that its own billing statements and records were confused, but now it believes that, if payments are properly applied:

(a) Prepetition arrears have been paid in full

Debtor's chapter 13 plan payments, through the Chapter 13 Trustee, have now paid in full the \$12,464.00 of arrears in assessments that were due as of the petition date. See Motion (dkt.48), p.16:10-13, & Ex.4, at PDF pp.56-57.

(b) Postpetition regular assessments have a positive balance as of 12/10/20, or a slight negative balance *if* the HOA's attorney fees and costs are included

In addition to her chapter 13 plan payments, Debtor made payments on the regular postpetition assessments, and in fact she **overpaid by \$4,626.66** (Motion (dkt.48), Ex.4, at PDF p.63, last line, penultimate column), before including legal fees and costs. Those fees are estimated to be approximately \$4,950.00 as of 12/10/20 (Motion (dkt.48), p.33:16-21), plus an anticipated \$180.00 in costs and additional fees for preparing reply papers and appearing at the hearing. *Id.* **If these specific dollar amounts of fees and costs were included, Debtor would owe approximately \$503.34** as of 12/10/20 (\$4,950.00 + \$180.00 = \$5,130.00 - \$4,626.66 = \$503.34). (As noted above, additional fees would be due for the reply papers and hearing; but the tentative ruling is to deny these and the HOA's other demands for attorney fees and costs.)

(c) The postpetition special assessment payments are current (as of

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Chapter 13

12/20)

Postpetition, approximately 2/2016, the HOA levied a special assessment to pay for repairs, in the amount of \$19,938.65 per unit. See Koochek Decl. (dkt.48), pp.30:10-31:3 & Ex.3 (at PDF pp.30-46). Homeowners could either pay that amount in a lump sum or pay over time with interest, in 180 payments of \$153.86 each. See Motion, Ex.3, Loan Amortization Schedule, at PDF pp. 35-38.

The HOA calculates that, if Debtor's payments are properly applied, she has a **positive balance of current payments, as of 12/20, of \$206.98** on account of the postpetition special assessment. See Motion (dkt.48), Ex.4, at PDF p.63 (last line, last column). The HOA calculates that Debtor has made 50 payments (*id.*), and according to the Loan Amortization Schedule that leaves a **special assessment principal balance of \$15,705.18** as of 1/1/21, to be paid in monthly installments of \$153.86 for months 51 through 180. See Motion (dkt.48), Ex.3, Loan Amortization Schedule p.2 (at PDF p.36) (entries for payment nos. 50 & 51).

(2) Analysis

(a) Tentative findings of fact

Debtor does not raise any specific challenges to the HOA's corrected accounting included in the motion papers. Nor has this Court found any errors in that accounting.

The tentative ruling is to accept that accounting for purposes of determining how Debtor's payments should be applied. Therefore, as of 12/10/20, (a) Debtor owes nothing on account of her prepetition arrears, (b) Debtor has a positive balance of \$4,626.66 on account of postpetition regular assessments (not including the HOA's asserted attorney fees and costs), and (c) on the special assessment, Debtor has a positive current balance of \$206.98, with a remaining principal balance of \$15,705.18, to be paid in monthly installments of \$153.86 for months 51 through 180.

(b) Tentative conclusions of law regarding the automatic stay

The automatic stay prohibits any act "to collect, assess, or recover a claim against the debtor that arose before the commencement of the case under this title." 11 U.S.C. 362(a)(6) (emphasis added). But, based on the foregoing findings of fact, the HOA concedes that the prepetition arrears have been paid in full, so this provision of the automatic stay is not implicated.

The HOA also has statutory assessment liens. See Motion (dkt.48)

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Chapter 13

p.15:3-20. The imposition of those liens potentially implicates the automatic stay's prohibition on "any act to create, perfect, or enforce any lien against property of the estate" (11 U.S.C. 362(a)(4)) and "any act to obtain possession of property of the estate or of property from the estate or to exercise control over property of the estate." 11 U.S.C. 362(a)(3). In this judicial district, a chapter 13 debtor' property is not re-vested in the debtor upon confirmation, so the automatic stay continues to apply at all relevant times.

But the tentative ruling is that it would be too expansive to interpret the automatic stay as applying to the HOA's postpetition assessments made in the ordinary course of its business and financial affairs. To the contrary, as the HOA points out, postpetition assessments are nondischargeable under 11 U.S.C. 523(a)(16), and it would seem anomalous to make postpetition assessments violate the automatic stay while also making them nondischargeable. Similarly, under 28 U.S.C. 959(b), the bankruptcy estate is supposed to be managed consistent with nonbankruptcy law, and it appears more consistent with that obligation for postpetition assessments made in the ordinary course not to be construed as an affirmative act to obtain possession of, or create or enforce a lien against, estate property, or otherwise violate the cited provisions of the automatic stay. If that were so, chapter 13 debtors and anyone interacting with them could not engage in any of their ordinary transactions without constantly seeking relief from the automatic stay; and it does not seem that Congress could have intended that trap for the unwary and impractical result.

In sum, the tentative ruling is that if postpetition assessments are made in the ordinary course, they do not require relief from the automatic stay of 11 U.S.C. 362(a)(3), (4), or (6). Nor has any party suggested that any other provision of 11 U.S.C. 362(a) applies.

Alternatively, the tentative ruling is to grant retroactive relief by annulling the automatic stay for cause, under under 11 U.S.C. 362(d)(1). This relief appears to be appropriate given (x) the lack of clear law on whether the automatic stay applies in these circumstances, (y) the HOA's evidence about its changes in management and confusion regarding the proper application of payments, and (z) the HOA's apparent attempts to correct the accounting and resolve the parties' disputes once it discovered the misapplication of payments, followed quickly by its motion for relief from the automatic stay once the attempted consensual resolution fell apart. See

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generally In re Fjeldsted, 293 B.R. 12 (9th Cir. BAP 2003); *and see also In re Williams*, 323 B.R. 691, 697-702 (9th Cir. BAP 2005) (various issues involving annulment, and application of *Fjeldsted*), *aff'd*, 204 Fed.Appx. 582 (9th Cir. 2006), *overruled on other issues, In re Perl*, 811 F.3d 1120 (9th Cir. 2016) (scope of automatic stay).

In sum, given the HOA's corrected accounting, it is not attempting to collect a prepetition debt, nor has it been shown to have engaged in any other act in violation of the automatic stay. Alternatively, annulment is appropriate.

(c) Tentative conclusions of law as to attorney fees

Under sections 6.04.1 and 6.04.2 of the HOA's Declaration of Covenants, Conditions and Restrictions ("CC&Rs"), attorney fees must be "reasonable" and otherwise allowable. Motion (dkt.48), Ex.2, pp.43-45 (PDF pp.23-25). The tentative ruling is that the HOA cannot charge Debtor for its attorney fees because its and/or its agents' own errors have caused the confusion and litigation over the foregoing issues.

(d) The parties' relations and accounting going forward

The parties are directed to address whether the positive balances in Debtor's current accounts for regular and special assessments, as of 12/10/20, should be applied to future monthly payments of regular assessments or the special assessment, or in a lump sum, or should be refunded to Debtor, or applied in some other way.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

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CONT... Alejandra Araujo

Chapter 13

Debtor(s):

Alejandra Araujo

Represented By
Jaime A Cuevas Jr.

Movant(s):

Genesis Condominium Association

Represented By
Alyssa B Klausner

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Thursday, January 21, 2021

Hearing Room 1545

8:30 AM

2:19-15346 Richard Glen LeRoy

Chapter 13

#9.00 Hrg re: Motion to disallow claim #1
of LVNV Funding , LLC

Docket 28

Tentative Ruling:

Continue to 2/18/21 at 8:30 a.m. to address the following issues.
Appearances are not required on 1/21/21.

Lack of cost/benefit analysis. The posted Procedures of Judge Bason
(available at www.cacb.uscourts.gov) provide:

§ 502: claim objections & cost/benefit analysis. When objecting to claims, be sure to include an analysis of whether the costs of preparing and litigating the claim objection (administrative expenses) do not exceed the anticipated benefits (reductions in claims). For example, if the anticipated dividend is small or 0% then the attorney fees incurred in prosecuting your claim objection to any general unsecured claim probably will exceed the benefit to the bankruptcy estate/debtor, so filing that objection would be a waste of the bankruptcy estate's (and everyone else's) resources (unless, for example, the claim is nondischargeable, in which event the attorney fees might well be justified).

No later than 7 days after the date of this hearing the movant must file either:

(1) a supplemental declaration explaining why the attorney fees for this objection are justified (including supporting evidence, such as a copy of the plan showing the projected dividend to the claimant, and a calculation comparing that projected dividend against the attorney fees related to this claim objection), or

(2) a withdrawal of the claim objection.

No fees on this matter, absent specific authorization. Counsel is directed not to charge any fees on this matter (including all past, present and future work related to this claim objection), and to return any fees received on this matter, unless and until this Court expressly finds: "Counsel has provided a

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CONT... **Richard Glen LeRoy**

Chapter 13

cost/benefit analysis that is sufficient for purposes of Judge Bason's posted Procedures regarding claim objections." It is counsel's responsibility to include the quoted phrase, if warranted, in the proposed order on this claim objection.

This Court does not have the capacity to monitor all fee applications to assure compliance with the foregoing limitation on fees. But if counsel is found to have disregarded this limitation then this Court may impose sanctions.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Richard Glen LeRoy

Represented By
Nicholas M Wajda

Movant(s):

Richard Glen LeRoy

Represented By
Nicholas M Wajda

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

8:30 AM

2:20-17820 Carey Marie Sutton and Thomas Grant Sutton

Chapter 13

#10.00 Hrg re: Objection to Claim Number 6
by Claimant IRS

Docket 37

Tentative Ruling:

Continue to 2/18/21 at 8:30 a.m. to address the following issues.
Appearances are not required on 1/21/21.

Reasons:

(a) Service

The motion papers were not served on the Internal Revenue Service ("IRS") at the address stated in its Proof of Claim (*i.e.*, Claim 6-1, p.1, para. "(3)"), which is also the required address listed for the IRS in the Court Manual. See Rule 7004(b)(4)&(5) (Fed. R. Bankr. P.); Local Bankruptcy Rule 2002-2(c)(2). Debtor is directed to serve the moving papers in a manner consistent with this ruling and file a proof of service no later than **1/28/21**.

(b) Lack of cost/benefit analysis. The posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) provide:

§ 502: claim objections & cost/benefit analysis. When objecting to claims, be sure to include an analysis of whether the costs of preparing and litigating the claim objection (administrative expenses) do not exceed the anticipated benefits (reductions in claims). For example, if the anticipated dividend is small or 0% then the attorney fees incurred in prosecuting your claim objection to any general unsecured claim probably will exceed the benefit to the bankruptcy estate/debtor, so filing that objection would be a waste of the bankruptcy estate's (and everyone else's) resources (unless, for example, the claim is nondischargeable, in which event the attorney fees might well be justified).

No later than 7 days after the date of this hearing the movant must file either:

(1) a supplemental declaration explaining why the attorney fees for this objection are justified (including supporting evidence, such as a copy of the

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CONT... Carey Marie Sutton and Thomas Grant Sutton

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plan showing the projected dividend to the claimant, and a calculation comparing that projected dividend against the attorney fees related to this claim objection), or

(2) a withdrawal of the claim objection.

No fees on this matter, absent specific authorization. Counsel is directed not to charge any fees on this matter (including all past, present and future work related to this claim objection), and to return any fees received on this matter, unless and until this Court expressly finds: "Counsel has provided a cost/benefit analysis that is sufficient for purposes of Judge Bason's posted Procedures regarding claim objections." It is counsel's responsibility to include the quoted phrase, if warranted, in the proposed order on this claim objection.

This Court does not have the capacity to monitor all fee applications to assure compliance with the foregoing limitation on fees. But if counsel is found to have disregarded this limitation then this Court may impose sanctions.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Carey Marie Sutton

Represented By
Marc A Goldbach

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CONT... Carey Marie Sutton and Thomas Grant Sutton

Chapter 13

Joint Debtor(s):

Thomas Grant Sutton

Represented By
Marc A Goldbach

Movant(s):

Carey Marie Sutton

Represented By
Marc A Goldbach
Marc A Goldbach
Marc A Goldbach
Marc A Goldbach
Marc A Goldbach

Thomas Grant Sutton

Represented By
Marc A Goldbach
Marc A Goldbach
Marc A Goldbach

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Thursday, January 21, 2021

Hearing Room 1545

8:30 AM

2:20-18003 Yolanda Espinosa

Chapter 13

#11.00 Hrg re: Objection to Proof of Claim #8 Filed by
Bank of America, N.A.

Docket 23

Tentative Ruling:

Continue to 3/18/21 at 8:30 a.m. so that claimant can commence its contemplated adversary proceeding or the parties can reach a consensual resolution. Counsel for Debtor is cautioned about the need to exercise reasonable judgment in how much to expend in paying attorney fees instead of paying creditors. Appearances are not required on 1/21/21.

(1) Reasons for continuance

This Court has reviewed Debtor's motion (dkt. 23), the claimant's opposition (dkt. 30), and Debtor's reply (dkt. 31). Although Debtor's reply argues that the claimant has not cited authority, that puts the cart before the horse. Debtor is the objecting party and Debtor has not cited any authority that a deed of trust on real property is void or unenforceable as a matter of law when it includes the correct street address and a conflicting legal description for a particular parcel.

Alternatively, even if Debtor did not need to cite any such authority (which is incorrect), this Court's understanding of California law is contrary to Debtor's position. Based on unrelated litigation before this Court, the general rule appears to be that a transfer of an interest in property "is not void for uncertainty because of errors or inconsistency in some of the particulars of the description" if it is possible "from the whole description to ascertain and identify the land intended to be conveyed." *Gyurec v. Bank of New York Trust Co., NA* (Cal. Ct. App., 4th Dist., 2014) (unpublished, Case No. No. G050083) (quoting *Leonard v. Osburn*, 169 Cal. 157, 160 (1915)) (correct street address sufficient for deed of trust's validity, even though it incorrectly described property as located in "Township 4 North" instead of Township 4 South"). See also Cal. Code Civ. P. 2077 ("Where there are certain definite and ascertained particulars in the description, the addition of others which are indefinite, unknown, or false, does not frustrate the conveyance, but it is to be construed by the first mentioned particulars.").

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CONT...

Yolanda Espinosa

Chapter 13

Based on the foregoing, it appears appropriate to continue this hearing for the parties either to litigate the issue or, perhaps, agree to a consensual resolution.

(2) Expenditure of funds on attorney fees

Given the apparent principles of California law (summarized above), Debtor's counsel is reminded of the need to do a cost/benefit analysis in determining whether it is worth expending funds on attorney fees that otherwise would go to pay creditors. Debtor's counsel is reminded that the posted "Procedures of Judge Bason" (available at www.cacb.uscourts.gov) state:

§ 502: claim objections & cost/benefit analysis. When objecting to claims, be sure to include an analysis of whether the costs of preparing and litigating the claim objection (administrative expenses) do not exceed the anticipated benefits (reductions in claims). For example, if the anticipated dividend is small or 0% then the attorney fees incurred in prosecuting your claim objection to any general unsecured claim probably will exceed the benefit to the bankruptcy estate/debtor, so filing that objection would be a waste of the bankruptcy estate's (and everyone else's) resources (unless, for example, the claim is nondischargeable, in which event the attorney fees might well be justified).

Debtor's claim objection does not include any cost/benefit analysis. If Debtor decides to continue with the claim objection, this Court will set a deadline at a future hearing for Debtor's counsel to file a cost/benefit declaration.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative

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CONT... Yolanda Espinosa

Chapter 13

rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Yolanda Espinosa

Represented By
Barry E Borowitz

Movant(s):

Yolanda Espinosa

Represented By
Barry E Borowitz

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Los Angeles
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8:30 AM

2:20-18115 Mike Rinaldi

Chapter 13

#12.00 Hrg re: Objecting to the proof of claim filed
by Portfolio Recovery Associates, LLC

Docket 36

Tentative Ruling:

Appearances are not required.
Grant.

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

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Mike Rinaldi

Represented By
David Samuel Shevitz

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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8:30 AM

2:20-18427 Bedros Missak Yazijian

Chapter 13

#13.00 Hrg re: Objection to Proof of Claim Filed by
Bank of America #1, #2 and #3

Docket 24

Tentative Ruling:

Continue to 2/18/21 at 8:30 a.m. to address the following issues.
Appearances are not required on 1/21/21.

Lack of cost/benefit analysis. The posted Procedures of Judge Bason
(available at www.cacb.uscourts.gov) provide:

§ 502: claim objections & cost/benefit analysis. When objecting to claims, be sure to include an analysis of whether the costs of preparing and litigating the claim objection (administrative expenses) do not exceed the anticipated benefits (reductions in claims). For example, if the anticipated dividend is small or 0% then the attorney fees incurred in prosecuting your claim objection to any general unsecured claim probably will exceed the benefit to the bankruptcy estate/debtor, so filing that objection would be a waste of the bankruptcy estate's (and everyone else's) resources (unless, for example, the claim is nondischargeable, in which event the attorney fees might well be justified).

No later than 7 days after the date of this hearing the movant must file either:

(1) a supplemental declaration explaining why the attorney fees for this objection are justified (including supporting evidence, such as a copy of the plan showing the projected dividend to the claimant, and a calculation comparing that projected dividend against the attorney fees related to this claim objection), or

(2) a withdrawal of the claim objection.

No fees on this matter, absent specific authorization. Counsel is directed not to charge any fees on this matter (including all past, present and future work related to this claim objection), and to return any fees received on this matter, unless and until this Court expressly finds: "Counsel has provided a

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CONT... **Bedros Missak Yazijian**

Chapter 13

cost/benefit analysis that is sufficient for purposes of Judge Bason's posted Procedures regarding claim objections." It is counsel's responsibility to include the quoted phrase, if warranted, in the proposed order on this claim objection.

This Court does not have the capacity to monitor all fee applications to assure compliance with the foregoing limitation on fees. But if counsel is found to have disregarded this limitation then this Court may impose sanctions.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Bedros Missak Yazijian

Represented By
Roland H Kedikian

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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8:30 AM

2:20-18427 Bedros Missak Yazijian

Chapter 13

#14.00 Hrg re: Objection to Proof of Claim Filed by Susan Go,
Successor Trustee of the Edmond B. Nebhan Revocable
Trust Dated August 27, 2014 Claim #7

Docket 26

Tentative Ruling:

Continue to 3/18/21 at 8:30 a.m. and direct the parties to mandatory mediation before one of this Court's panel of mediators (*not* a bankruptcy judge), with a **deadline of 2/5/21** to lodge a mediation order. Appearances are not required on 1/21/21.

This Court has reviewed Debtor's objection (dkt. 26), the claimant's opposition (dkt. 39), and Debtor's reply (dkt. 41). The objection is based on alleged usury.

"California's usury restrictions are a curious and confusing blend of the California State Constitution, statutory law, and case law pertaining to both Article XV of the California Constitution and the relevant usury statutes." *Wishnev v. Northwestern Mut. Life Ins. Co.*, 162 F.Supp.3d 930, 937 (ND Cal. 2016). But both parties' papers cite almost no authority.

The claimant seeks a continuance for discovery, which she believes will show (a) that the loan was made for "business purposes" and (b) that the loan was arranged by a real estate broker. Debtor replies (x) that "even if funds were used for business purposes they would still be usurious" (citing section 2 of Article XV of The California Constitution); (y) that the exemption for a real estate broker "arranging" a loan requires that the broker "receives a commission and actively participates in the negotiation and drafting of the loan terms" (dkt.41, p.3:1-2) (citing no authority, and providing no evidence of a lack of such involvement); and (z) that the claimant should have documentation on these things, and is only seeking extensive discovery to harass Debtor, "beat [Debtor] into submission," and "delay this bankruptcy." Dkt.41, p.3:17-18. Debtor also requests that, if this Court permits discovery into the issues raised by the claimant, Debtor be permitted to do its own discovery.

The tentative ruling is that normally the parties are free to propound

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CONT... **Bedros Missak Yazijian**

Chapter 13

any discovery they believe might lead to admissible evidence, subject to other parties' rights to seek orders quashing or limiting discovery. But in this instance it appears appropriate to stay discovery and order mandatory mediation in view of (i) the complexities of usury law, (ii) the relatively small dollar amounts at issue, relative to the potential attorney fees of litigation (see POC, reproduced at dkt.26, Ex.A, last page, listing \$33,780.82 in interest), and (iii) the difficulty of discovery due to the length of time since the loan's inception, the transfers of the loan, and the likelihood of a lack of rigorous documentation by either party (or any predecessor in interest to the claimant). In other words, mediation appears particularly appropriate because there appears to be a potential for attorney fees to exceed the discounted present value of each party's chances of obtaining a net benefit at the end of their litigation.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Bedros Missak Yazijian

Represented By
Roland H Kedikian

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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8:30 AM

2:20-19479 Armenuhi Matevosian

Chapter 13

#15.00 Hrg re: Motion to Convert Case From Chapter 13 to 11

Docket 37

Tentative Ruling:

Appearances are not required.
Grant.

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

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Armenuhi Matevosian

Represented By
Dana M Douglas

Movant(s):

Armenuhi Matevosian

Represented By
Dana M Douglas

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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CONT... Armenuhi Matevosian

Chapter 13

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8:30 AM

2:17-24084 Kip Scott Rolfe

Chapter 13

#16.00 Hrg re: Objection to Claim Number 11
by Claimant Internal Revenue Service

Docket 74

*** VACATED *** REASON: Continued to 2/18/21 at 8:30 a.m. [dkt. 78]

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Kip Scott Rolfe

Represented By
Thomas B Ure

Movant(s):

Kip Scott Rolfe

Represented By
Thomas B Ure

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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8:30 AM

2:17-24084 Kip Scott Rolfe

Chapter 13

#17.00 Cont'd hrg re: Motion Objecting to the Proof of Claim
Filed by Internal Revenue Service
fr. 12/17/20

Docket 65

*** VACATED *** REASON: Motion denied without prejudice (see dkt.
71)

Tentative Ruling:

Party Information

Debtor(s):

Kip Scott Rolfe

Represented By
Thomas B Ure

Movant(s):

Kip Scott Rolfe

Represented By
Thomas B Ure

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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8:30 AM

2:17-24084 Kip Scott Rolfe

Chapter 13

#18.00 Order to show cause why this court should not deny his fees and costs associated with the claim objection

Docket 71

Tentative Ruling:

Appearances are not required.

Pursuant to this Court's order to show cause (dkt. 71), the tentative ruling is to direct Mr. Ure not to charge Debtor for any fees or costs associated with the Claim Objection (dkt. 65, 67) and Amended Proof of Service (dkt. 70), prior to 12/20/20, because (a) he is an experienced bankruptcy practitioner who should already know the proper procedures for service on the IRS, and (b) he failed personally to make sure the amended service cured the deficient service, especially after this Court's tentative ruling for 12/17/20 directed him to the specific rules and procedures for service on the IRS.

Proposed order: This Court will prepare an order after the hearing date, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

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CONT... Kip Scott Rolfe

Chapter 13

Party Information

Debtor(s):

Kip Scott Rolfe

Represented By
Thomas B Ure

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:20-15577 Bela Janos Cseh

Chapter 13

#19.00 Cont'd hrg re: Objection to Claim Number 1 by Claimant Deutsche Bank National Trust Company, as Trustee for Morgan Stanley Dean Witter Capital I Inc. Trust 2002-AM3 Mortgage Pass-Through Certificates, Series 2002-AM3 fr. 11/19/20

Docket 31

Tentative Ruling:

**Tentative ruling for 1/21/21:
Appearances required.**

There is no tentative ruling, but the parties should be prepared to address when to set this matter for oral argument and whether, meanwhile, to order mediation.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative ruling for 11/19/20:

Continue to 1/21/21 at 8:30 a.m. at which time this Court does not anticipate hearing oral argument but does anticipate determining when to set this matter for oral argument. Meanwhile, this Court is very sorry to hear that Debtor's counsel has contracted COVID-19. This Court wishes counsel a speedy and full recovery. Appearances are not required on 11/19/20.

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CONT... **Bela Janos Cseh**

Chapter 13

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, all appearances are telephonic via CourtCall at (888) 882-6878.

Party Information

Debtor(s):

Bela Janos Cseh

Represented By
Donna R Dishbak

Movant(s):

Bela Janos Cseh

Represented By
Donna R Dishbak
Donna R Dishbak

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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8:30 AM

2:16-23461 Matthew B. Kennedy

Chapter 13

#20.00 Cont'd hrg re: Motion Under Local Bankruptcy Rule 3015-1 (n) and (w) to Modify Plan or Suspend Plan Payments fr. 11/19/20, 12/17/20

Docket 109

Tentative Ruling:

Tentative Ruling for 1/21/21:

Appearances required, absent either (1) an agreement with the Chapter 13 Trustee's office and the objecting creditors to continue this matter or (2) withdrawal of the motion by Debtor.

Analysis

At the 12/17/20 hearing, the Debtor and the siblings and creditors Patricia A. Kennedy and Vincent J. Kennedy (the "Siblings") informed the Court that they had reached a settlement on the motion. As of the date of this tentative ruling, no order on the motion has been lodged with the Court. There is no tentative ruling, but the parties should be prepared to address whether the intent remains to resolve the motion by way of the settlement.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 12/17/20:

Appearances required, absent either (1) an agreement with the Chapter 13

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CONT... **Matthew B. Kennedy**

Chapter 13

Trustee's office and the objecting creditors to continue this matter or (2) withdrawal of the motion by Debtor. The tentative ruling is to deny the motion for the reasons set forth below.

Analysis

At the 11/19/20 hearing, this Court was persuaded to continue the matter to allow the parties to file additional papers. The Court has reviewed Debtor's supplemental Declaration (dkt. 123), the supplemental Opposition by siblings and creditors Patricia A. Kennedy and Vincent J. Kennedy (the "Siblings") (dkt. 124), Debtor's supplemental Reply (dkt.125), and the documents reviewed in preparation of the tentative ruling for 11/19/20.

The tentative ruling is that, although Debtor's evidentiary objections are well taken, nevertheless (i) Debtor's supplemental declaration has not established that his alleged financial hardship is in fact due to the pandemic as required by 11 U.S.C. 1329(d) and (ii) Debtor has not established good faith for a plan modification as required by 11 U.S.C. 1329(b)(1).

Debtor has provided evidence indicating that his brother has had a reduction in income, that he was unsuccessful in finding replacement tenant to rent the property, and why preparing the garage for use as a rentable space is not possible. Dkt. 123, pp. 2–5. Debtor's evidence of his brother's reduction in income appears to be adequate, as is his evidence of the apparent expense of repairing and furnishing the garage and his alleged intent from the outset not to rent the garage but instead to rent the entire house out if necessary to fund his "step up" plan (the Siblings dispute this, but they do not provide admissible evidence). But Debtor has not adequately explained his efforts to lease the property.

Debtor alleges that he placed a "for rent" sign in front of the property. Dkt. 123, p.2. But Debtor does not explain when this sign was put up, how long the sign remained, and what other efforts he undertook when it became clear that the for rent sign was unsuccessful in attracting a tenant. For this reason and the reasons stated in the tentative ruling for 11/19/20, the tentative ruling is to deny the motion.

Notwithstanding all of the foregoing, the parties are directed to meet and confer to see if a compromise can be reached. This Court is concerned that if the parties do not settle then there could be considerable additional litigation between Debtor and the Siblings, and that such litigation might result in added expense without added benefit for the parties, and also could result

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CONT... Matthew B. Kennedy

Chapter 13

in adverse consequences to third parties.

If Debtor and the Siblings reach a compromise then, depending on the nature of the compromise and any offers of proof, this Court may well be able to find, in the absence of evidentiary objections from the Siblings and the Chapter 13 Trustee, that there is sufficient "good faith" and compliance with section 1329(d) to grant a modified version of the motion.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 11/19/20:

NOTE: For purposes of the deadline to notify opposing counsel/parties of an intent to contest tentative rulings (1/2 the time between the time of posting and the hearing time), the following Tentative Rulings were first posted shortly before:

1:30 p.m. on 11/17/20.

Appearances required, absent either (1) an agreement with the Chapter 13 Trustee's office and the objecting creditors to continue this matter or (2) withdrawal of the motion by Debtor. The tentative ruling is to deny the motion for the reasons set forth below.

Analysis

This Court has reviewed the objection by siblings and creditors Patricia

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CONT...

Matthew B. Kennedy

Chapter 13

A. Kennedy and Vincent J. Kennedy (the "Siblings") (dkt. 111), the response of the Chapter 13 Trustee (dkt. 113), Debtor's reply (dkt. 120), and the Siblings' unauthorized sur-reply (dkt. 121). As a preliminary matter, the tentative ruling is to strike the unauthorized sur-reply. Nevertheless, the tentative ruling is to deny the motion for the following reasons.

Modification can be requested under 11 U.S.C. 1329. Section 1329(c) usually provides that a plan as modified may not exceed five years, but the CARES Act added section 1329(d), which permits an extension, in certain circumstances, of up to seven years after the first payment under the original plan was due (for chapter 13 plans confirmed prior to 3/27/20).

To be eligible for that extension Debtor must establish that he "is experiencing or has experienced a material financial hardship due, directly or indirectly, to the coronavirus disease 2019 (COVID-19) pandemic" and if the modification "is approved after notice and a hearing." (Emphasis added.) The tentative ruling is that Debtor has not established that his alleged financial hardship is in fact due to the pandemic.

First, Debtor asserts that his brother, who has been occupying part of the property, has been making "contributions" to fund the plan but had a reduction in income due to the pandemic and cannot afford to continue with such "contributions" or pay rent. Debtor also asserts that he has been unable to find paying tenants due to the pandemic. Where is the evidence of the brother's financial inability to pay fair rent? Where is the evidence of Debtor's efforts to find a paying tenant (and evict his brother)?

Second, Debtor alleges that his garage is "packed with boxes and other household items, and is not habitable." Reply (dkt.120), p.7:1-3 & Ex.3. Why has it not been possible, since the inception of this case and especially now, to clean up and rent out this space?

There might (or might not) be good explanations for these things. But Debtor fails to address them.

The same concerns apply under section 1325(a), made applicable to any proposed plan modification by section 1329(b)(1). Section 1325(a)(3) requires that "the plan has been proposed in good faith and not by any means forbidden by law." See *In re Sunahara*, 326 B.R. 768, 772-84 (9th Cir. BAP 2005).

The "good faith" determination "necessarily requires an assessment of a debtor's overall financial condition including, without limitation, the debtor's current disposable income, the likelihood that the debtor's disposable income

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CONT... **Matthew B. Kennedy**

Chapter 13

will significantly increase ..." and any other facts and circumstances bearing on the issue of good faith. *Id.* at 781-82. For the same reasons stated above, the tentative ruling is that Debtor has not established his good faith.

In sum, Debtor has not satisfied section 1329(d) - by failing to provide enough evidence that it is the pandemic that has made the plan infeasible - nor has he provided sufficient evidence of his good faith under section 1325(a)(3). Therefore the tentative ruling is to deny the motion.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, all appearances are telephonic via CourtCall at (888) 882-6878.

Party Information

Debtor(s):

Matthew B. Kennedy

Represented By
Michael Jay Berger

Movant(s):

Matthew B. Kennedy

Represented By
Michael Jay Berger

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:19-24368 Brooke Dworzan

Chapter 13

#21.00 Cont'd hrg re: Motion under Local Bankruptcy Rule 3015-1 (n)
and (w) to modify plan or suspend plan payments
fr.12/17/20

Docket 35

*** VACATED *** REASON: Resolved pursuant to dkt. 41 and order
thereon

Tentative Ruling:

Party Information

Debtor(s):

Brooke Dworzan

Represented By
Julie J Villalobos

Movant(s):

Brooke Dworzan

Represented By
Julie J Villalobos

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Thursday, January 21, 2021

Hearing Room 1545

8:30 AM

2:20-15698 Gerald Edward Young

Chapter 13

#22.00 Cont'd hrg re: Objection to Claim Number 8
by Claimant LB Property Management
fr. 11/19/20

Docket 37

Tentative Ruling:

Tentative Ruling for 1/21/21:
Appearances required.

Based on the arguments and representations of the parties at the hearing on 11/19/20, this Court continued the matter to this date to allow time for the parties to review their records and try to resolve their dispute outside of court. There is no tentative ruling, but the parties should be prepared to update this Court on the status of those discussions.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 11/19/20:

Continue to 12/17/20 at 8:30 a.m. to address the following issues.
Appearances are not required on 11/19/20.

Reasons:

Lack of cost/benefit analysis. The posted Procedures of Judge Bason

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CONT... Gerald Edward Young

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(available at www.cacb.uscourts.gov) provide:

§ 502: claim objections & cost/benefit analysis. When objecting to claims, be sure to include an analysis of whether the costs of preparing and litigating the claim objection (administrative expenses) do not exceed the anticipated benefits (reductions in claims). For example, if the anticipated dividend is small or 0% then the attorney fees incurred in prosecuting your claim objection to any general unsecured claim probably will exceed the benefit to the bankruptcy estate/debtor, so filing that objection would be a waste of the bankruptcy estate's (and everyone else's) resources (unless, for example, the claim is nondischargeable, in which event the attorney fees might well be justified).

No later than 7 days after the date of this hearing the movant must file either:

(1) a supplemental declaration explaining why the attorney fees for this objection are justified (including supporting evidence, such as a copy of the plan showing the projected dividend to the claimant, and a calculation comparing that projected dividend against the attorney fees related to this claim objection), or

(2) a withdrawal of the claim objection.

No fees on this matter, absent specific authorization. Counsel is directed not to charge any fees on this matter (including all past, present and future work related to this claim objection), and to return any fees received on this matter, unless and until this Court expressly finds: "Counsel has provided a cost/benefit analysis that is sufficient for purposes of Judge Bason's posted Procedures regarding claim objections." It is counsel's responsibility to include the quoted phrase, if warranted, in the proposed order on this claim objection.

This Court does not have the capacity to monitor all fee applications to assure compliance with the foregoing limitation on fees. But if counsel is found to have disregarded this limitation then this Court may impose sanctions.

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

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www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, all appearances are telephonic via CourtCall at (888) 882-6878.

Party Information

Debtor(s):

Gerald Edward Young

Represented By
Erika Luna

Movant(s):

Gerald Edward Young

Represented By
Erika Luna
Erika Luna
Erika Luna

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Thursday, January 21, 2021

Hearing Room 1545

8:30 AM

2:20-15949 Juan Carlos Ulloa and Charina Antoinette Ulloa

Chapter 13

#23.00 Cont'd hrg re: Motion to Avoid Lien Judicial
with Cavalry Investments/Fireside Bank
fr. 12/17/20

Docket 36

*** VACATED *** REASON: Withdrawal of Motion Filed 12/23/20 (Dkt.
46)

Tentative Ruling:

Party Information

Debtor(s):

Juan Carlos Ulloa

Represented By
Hasmik Jasmine Papian

Joint Debtor(s):

Charina Antoinette Ulloa

Represented By
Hasmik Jasmine Papian

Movant(s):

Juan Carlos Ulloa

Represented By
Hasmik Jasmine Papian

Charina Antoinette Ulloa

Represented By
Hasmik Jasmine Papian

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Thursday, January 21, 2021

Hearing Room 1545

8:30 AM

2:20-16242 Magdalena Avila

Chapter 13

#24.00 Cont'd hrg re: Debtor's Objection to Proof of Claim 6 by Claimant BBV Profit Sharing Plan fr. 9/24/20, 10/22/20, 11/19/20, 12/17/20

Docket 38

Tentative Ruling:

Tentative Ruling for 1/21/21 (same as for 12/17/20):
Appearances required.

This matter has been continued a number of times to allow time for the parties to communicate with a senior lienholder and negotiate an amicable resolution of their dispute. There is no tentative ruling, but the parties should be prepared to provide an update on the status of their negotiations.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 11/19/20:

Continue to 12/17/20 at 8:30 a.m. for the reasons stated in the Status Report (dkt.59) filed by BBV. Appearances are not required on 11/19/20.

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

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Chapter 13

www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, all appearances are telephonic via CourtCall at (888) 882-6878.

Tentative Ruling for 9/24/20:

Sustain the claim objection in part, overrule it in part, and continue the hearing, all as set forth below. Appearances required.

Key documents reviewed (in addition to motion papers): BBV Profit Sharing Plan ("BBV") opposition papers (dkt. 40, 41), Debtor's reply (dkt. 42), BBV's unauthorized sur-reply (dkt. 43), BBV's amended proof of claim 6-2 ("AmClaim")

Analysis:

(1) Advances of funds to the senior lienholder

(a) Nonbankruptcy law

The tentative ruling is that Debtor is correct that under nonbankruptcy law a junior lienholder is not authorized to advance more funds than what is necessary to cure any arrears on a senior lien (Cal. Civ. Code 2924c(a)(1)) and BBV has not demonstrated that it was necessary to advance \$91,930.10 to the senior lienholder, when it appears that the senior lienholder's arrears as of the petition date were only \$47,356.58 (see dkt. 38, Ex.C). Therefore, to the extent the advances exceeded the amount of any default (*i.e.*, \$91,930.10 - \$47,356.58 = \$44,573.52), they were unauthorized under nonbankruptcy law.

The parties have not briefed the consequences of making such an unauthorized transfer. One remedy might be for BBV, Debtor, and/or the senior lien holder to seek to unwind BBV's unauthorized payment of \$44,573.52 to the senior lien holder. In that event, presumably, Debtor would once again owe the excess \$44,573.52 to the senior debt holder, and BBV's claim would be reduced by that same dollar amount. But that does not appear to have happened, so the question is what consequences follow from BBV's unauthorized payment of the senior debt.

The tentative ruling, in the absence of cited authority from either party,

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is that California law must be construed so as to treat BBV's payment of the senior debt as an unauthorized loan that attempts to replace the (lower) interest rate under the senior loan documents with the (higher) interest rate under the junior loan documents, and that this is impermissible. BBV has not cited authority that someone who makes a loan without authority to do so can charge any interest on that unauthorized loan. Therefore, the tentative ruling is that BBV cannot charge any interest prior to the effective date of any plan; although, after the effective date, it would have to bear "present value" interest pursuant to 11 U.S.C. 1325(a)(5)(B)(ii). In other words, the senior debt paid by BBV does not simply disappear (which would be a windfall to Debtor), but nor can BBV charge (higher) interest on that debt (which would be a windfall to BBV).

(b) Bankruptcy law

All of the foregoing analysis under nonbankruptcy law may be mooted by the superseding effect of bankruptcy law. It appears that both of BBV's payments are void as a matter of bankruptcy law.

BBV's checks are dated 7/8/20 - the same day that Debtor's prior bankruptcy case was dismissed (Case No. 2:18-bk-18060-NB). This Court presumes for purposes of this discussion that the checks were issued after the dismissal (and therefore this Court will not address whether the checks violated the automatic stay in that prior case). This Court also presumes, for purposes of this discussion, that the checks were mailed on or about the same date. But the timestamps reflect that the checks were not received and/or deposited by the senior lienholder until after the 7/10/20 petition date in this current case. The checks apparently were deposited on 7/13/20 and 7/17/20 (see AmClaim, pdf pp. 6-7).

The parties have not briefed which of these dates is relevant, but the tentative ruling is that the date of deposit is the date when BBV's lien against Debtor's real property was increased, and that this constituted a "transfer" of an interest in that property and an "exercise of control" over property of the estate, in violation of the automatic stay of 11 U.S.C. 362(a)(3). Alternatively the tentative ruling is that each transfer constituted an act to obtain "possession" of property of the estate in violation of the other clause of 11 U.S.C. 362(a)(3), or an act to "create, perfect, or enforce a lien" against property of the estate in violation of 11 U.S.C. 362(a)(4). On each of these alternative grounds, BBV's advances violated the automatic stay and therefore are void *ab initio*. See generally 11 U.S.C. 11 U.S.C. 101(50)

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("transfer" defined); *cf. In re Lee*, 179 B.R. 149, 158-59 (9th Cir. BAP 1995) (date of "transfer" involving perfection of lien, under 11 U.S.C. 547), *aff'd* 108 F.3d 239, 241 (9th Cir. 1997); *In re Hagen*, 922 F.2d 742, 745 (11th Cir. 1991) (same); *see also In re Schwartz*, 954 F.2d 569, 571 (9th Cir. 1992) (acts in violation of automatic stay are void).

Note: The tentative ruling is that the transfers also likely constituted avoidable unauthorized postpetition transfers (11 U.S.C. 549(a)), and/or unauthorized post-petition loans (11 U.S.C. 364), which had the effect of replacing a senior encumbrance bearing a low interest rate with BBV's encumbrance bearing a higher interest rate. But the tentative ruling is that this Court cannot make any ruling on those issues because they would require an adversary proceeding. *See* Rules 3007(b), 7001(1) (Fed. R. Bankr. P.).

The bottom line is that, in making payments to the holder of the senior lien, BBV violated the automatic stay and therefore both advances are void. BBV argues that there is no harm because Debtor owed the money anyway, but as a practical matter, BBV effectively increased the interest rate that Debtor must pay, which ultimately takes away from any recovery for junior creditors and jeopardizes Debtor's ability to reorganize.

Again, this Court is not ruling that Debtor will receive a windfall. If this Court adheres to the foregoing tentative ruling then the transfers from BBV to the senior lien holder were void, so presumably the senior lienholder must return the \$91,930.10 to BBV and Debtor's debt to the senior lienholder will increase by that same dollar amount. That said, the senior lienholder has not been made a party to these proceedings, and Debtor has not commenced any proceeding to compel turnover by the senior lienholder (*see* 11 U.S.C. 542; Rule 7001(1), Fed. R. Bankr. P.). In addition, if BBV's entire \$91,930.10 transfers were to be unwound then Debtor might owe additional interest, late charges, and other charges to the senior lienholder, and there might be other consequences.

Accordingly, although the tentative ruling is that BBV's \$91,930.10 in advances were void (because, by increasing BBV's lien, they violated the automatic stay), the tentative ruling is that it would be premature to disallow BBV's claim for those funds at this time. Rather, the tentative ruling is to direct Debtor and BBV to meet and confer, and for both of them to communicate with the holder of the senior lien, to attempt to resolve this matter.

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Chapter 13

(2) Foreclosure and Bankruptcy Attorneys Fees and Costs

(i) Foreclosure fees, costs & interest thereon

The tentative ruling is to overrule Debtor's objection to BBV's foreclosure fees, costs and interest because BBV's response cites the applicable loan provision that purportedly entitles it to collect these fees/costs (dkt. 40, p.8:1-9) and Debtor's reply does not renew any challenges to these items.

(ii) Reasonableness of attorneys' fees & costs

The tentative ruling is to overrule the objection as to the reasonableness of the amounts charged because BBV's opposition papers attach time records (dkt. 40, Ex.2, pdf pp. 30-40 & dkt. 41), which appear to provide adequate support for the reasonableness of its fees.

(iii) Rule 3002.1(c) (Fed. R. Bankr. P.)

First, the tentative ruling is that it is appropriate for this Court to reach the merits of this issue because although Debtor raised this issue for the first time in her reply papers (a) it appears to be in response to new information provided in BBV's opposition and (b) there is no prejudice to BBV because it filed the unauthorized sur-reply (dkt. 43) responding to these arguments.

Second, on the merits, the tentative ruling is that Debtor appears to be correct that BBV did not comply with Rule 3002.1(c) by filing timely notices of postpetition mortgage fees, expenses and charges in the Prior Case. Although BBV points out (dkt. 43) that any noncompliance was in the Prior Case, the tentative ruling is that for the following reasons this issue is properly raised in this current case.

The tentative ruling is that the burden is on BBV to show why charges that it was supposed to have noticed in the prior case should survive and be chargeable in this case. In addition, if necessary this Court could reopen the prior case and decide the issues in that case instead of in this one, but because this Court presided over the Prior Case that would appear to be form over substance, and any insistence by BBV on parties incurring the expense of reopening might be appropriately charged to BBV as part of this Court's discretion under Rule 3002.1(i) to award "appropriate relief."

All of that said, neither side has cited any authority interpreting Rule 3002.1; Debtor has not shown how she was prejudiced by BBV's nondisclosure of its charges in the Prior Case; and just as Debtor is having another bite at the apple in this current case perhaps BBV should as well - in

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Chapter 13

other words, BBV's apparent violation of Rule 3002.1 does not appear to have caused any cognizable prejudice, and both parties did not fully live up to their obligations in the prior bankruptcy case, so the tentative ruling is that an "appropriate remedy" under Rule 3002.1(i) is probably not to reduce BBV's claim. Therefore the tentative ruling is to overrule Debtor's objection on this ground.

(3) Interest Rate

The tentative ruling is to overrule the objection for the reasons stated in BBV's opposition papers.

(4) Unapplied funds from Debtor's prior bankruptcy case

The tentative ruling is that this objection appears to be moot in view of BBV's filing of an Amended Proof of Claim crediting Debtor for all payments made during the Prior Case.

(5) Conclusion

The tentative ruling is not to adopt any of the foregoing tentative rulings on any final basis, and instead to direct the parties to meet and confer, and communicate with the holder of the senior lien, and meanwhile continue this matter to 10/22/20 at 8:30 a.m.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, all appearances are telephonic via CourtCall at (888) 882-6878.

Party Information

Debtor(s):

Magdalena Avila

Represented By
Stephen S Smyth

**United States Bankruptcy Court
Central District of California
Los Angeles
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CONT... Magdalena Avila

Chapter 13

Movant(s):

Magdalena Avila

Represented By
Stephen S Smyth

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Thursday, January 21, 2021

Hearing Room 1545

8:30 AM

2:20-16719 Diana Mitra Saidian

Chapter 13

#25.00 Cont'd hrg re: Objection to Claim No. 5-2 Filed by
Investment Management Company LLC
fr. 11/19/20, 12/17/20

Docket 53

Tentative Ruling:

Tentative Ruling for 1/21/21:

Appearances required.

At the 12/17/20 hearing, this Court was persuaded to continue the hearing to after the 1/5/21 deadline for written discovery responses. As of the date of preparation for this tentative ruling, no additional documentation related to the claim objection has been filed on the docket. There is no tentative ruling, but the parties should be prepared to discuss whether this hearing should be further continued for additional discovery.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 12/17/20:

Continue to 1/21/21 at 8:30 a.m., after discovery responses are due. See Status Report (dkt. 83). Appearances are not required on 12/17/20.

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

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8:30 AM

CONT... Diana Mitra Saidian

Chapter 13

wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 11/19/20:

Continue to 12/17/20 at 8:30 a.m. to address the following issues.

Appearances are not required on 11/19/20.

-

Withdrawal of Counsel. On 10/16/20, Debtor's counsel filed a motion to withdraw as attorney. (dkt. 51). On 11/4/20, this Court set the motion to withdraw as attorney for hearing on 11/19/20. (dkt. 61). In her supplemental briefing, Debtor requested a continuance so that she can find a new attorney. (dkt. 68, p. 3). The tentative ruling is to continue this hearing to 12/17/20 to allow her to retain new counsel, with a **deadline of 12/8/20** for Debtor's reply.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, all appearances are telephonic via CourtCall at (888) 882-6878.

Party Information

Debtor(s):

Diana Mitra Saidian

Represented By
Raymond H. Aver

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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8:30 AM

CONT... Diana Mitra Saidian

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Represented By
Fari B Nejadpour

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Thursday, January 21, 2021

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9:30 AM

2:00-00000

Chapter

**#1.00 PLEASE BE ADVISED THAT THE CHAPTER 13 9:30 AM
CONFIRMATION CALENDAR CAN BE VIEWED ON THE
COURT'S WEBSITE (www.cacb.uscourts.gov) UNDER:
JUDGES>BASON, N.>CHAPTER 13>CONFIRMATION HEARINGS CALENDAR**

Docket 0

Tentative Ruling:

- NONE LISTED -

**United States Bankruptcy Court
Central District of California
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Thursday, January 21, 2021

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11:00 AM
2:00-00000

Chapter

**#1.00 PLEASE BE ADVISED THAT THE CHAPTER 13 HEARINGS
at 11:00 AM CAN BE VIEWED ON THE COURT'S WEBSITE
(www.cacb.uscourts.gov) UNDER: JUDGES>BASON, N.>CHAPTER 13**

Docket 0

Tentative Ruling:

- NONE LISTED -

**United States Bankruptcy Court
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Thursday, January 21, 2021

Hearing Room 1545

1:00 PM

2:18-12429 Dana Hollister

Chapter 11

#1.00 Hrg re: Debtor's Motion for Reconsideration of Order
Approving Term Sheet Settlement (Dkt. #557) (Dkt #1298)

Docket 1298

Tentative Ruling:

Please see Tentative Ruling for Status Conference (1/21/21 at 1:00 p.m.,
calendar no. 2).

Party Information

Debtor(s):

Dana Hollister

Represented By
David A Tilem
Mark A Kressel
Alan M Insul

**United States Bankruptcy Court
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Hearing Room 1545

1:00 PM

2:18-12429 Dana Hollister

Chapter 11

#2.00 Cont'd Status Conference re: Chapter 11 Case
fr. 3/9/18, 3/20/18, 3/21/18, 4/17/18, 5/3/18, 5/7/18,
6/12/18, 6/22/18, 7/16/18, 8/3/18, 9/4/18, 11/6/18,
01/15/19, 1/29/19, 2/26/19, 3/26/19, 4/16/19;
04/29/19, 05/21/19, 5/28/19, 6/18/19, 7/2/19; 08/06/19,
10/15/19, 11/12/19, 11/21/19, 01/14/20, 3/3/20, 3/10/20,
04/07/20, 5/19/20, 6/16/20, 6/30/20, 7/14/20, 7/28/20,
8/4/20, 09/15/20, 10/27/20, 12/08/20

Docket 1

Tentative Ruling:

**Tentative Ruling for 1/21/21:
Appearances required.**

(1) Current issues

(a) Motion (the "Reconsideration Motion," dkt.1289, 1300, 1304, 1305, 1318) regarding order (dkt.557) granting Debtor's motion to approve settlement agreement (dkt.547); order shortening time (dkt.1301, 1311); creditors' committee response (dkt.1307); opposition papers of Anea Enter., LLC ("Anea," dkt. 1310), Bobs LLC ("Bobs," dkt.1312), The Bird Nest, LLC ("Bird") and the Roman Catholic Archbishop of Los Angeles, And the California Institute of the Sisters of the Most Holy and Immaculate Heart of the Blessed Virgin Mary ("Church") (dkt.1313-1316); reply papers (dkt. 1322-1324); and Church/Bird's evidentiary objections thereto (dkt.1325)

Deny. The Reconsideration Motion requests that this Court "reconsider" the order approving her settlement with certain creditors by extending the time for her performance by up to one year. Debtor cites no authority that this Court has any power to rewriting the parties' settlement agreement.

Alternatively, even if Debtor were correct that in theory the duty of "good faith and fair dealing" would permit this Court to rewrite the parties' agreement (which it does not), the tentative ruling is that Debtor's own evidence fails to establish that the Church and Bird violated that duty. There is no apparent lack of good faith demonstrated in the concerns raised by

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1:00 PM

CONT...

Dana Hollister

Chapter 11

those creditors. See, e.g., Reconsid. Mot. (dkt.1298), Ex.13, at p.128 (email summarizing Church/Bird concerns that they are not adequately protected).

Alternatively, although Debtor blames the current pandemic situation for her inability to perform her agreement, she has not provided any evidence that she was precluded from refinancing or selling the Paramour property or entering into a joint venture in the months and years prior to the onset of the pandemic. In other words, on the record presented, the tentative ruling is that Debtor has not established that anything but her own delay caused her to be susceptible to risks such as the current pandemic situation.

Alternatively, the tentative ruling is to deny the Reconsideration Motion for the other reasons stated by Church, Bird, Bobs, and Anea. Without limiting the generality of the immediately preceding sentence, the tentative ruling is that those creditors' concerns about further delay in Debtor's performance are well founded, both based on Debtor's past performance and losses and, alternatively, in view of the uncertainty and possible effects of the pandemic situation on Debtor's businesses and assets.

On the latter point, this Court takes judicial notice that the pandemic situation has been growing much worse: local businesses such as The Paramour are subject to very substantial restrictions; new variants of the virus have emerged; and the vaccine rollouts have not been as rapid or widespread as hoped. All of these matters reinforce creditors' objections. See, e.g., Anea Obj. (dkt.1310) (noting lengthy delays in disposition of Roble Vista Property, lack of payment of property taxes, and stating that "Covid 19 has affected everyone, including creditors" and Debtor's problems "should not put a greater burden on creditors"); Bobs Obj. (dkt.1312) (citing risk that any equity cushion might be "rapidly eroding" or non-existent due to the pandemic situation); Maddoc Decl. (dkt.1314) (noting lack of foundation for Debtor's assertions, including long-standing lack of evidence of profitability of The Paramour; lack of evidence that Debtor could qualify for \$25 million loan at 3% interest; and, to the contrary, many reasons to conclude that Debtor would not qualify for any loan that could be supported even by drastically improved cash flow).

Proposed order: Counsel for the Church is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of parts "(1)(a)" above and "(1)(b)" below of this tentative ruling, thereby incorporating them as this Court's final rulings, subject to any changes ordered at the hearing. See LBR

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Los Angeles
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1:00 PM

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Dana Hollister
9021-1(b)(1)(B).

Chapter 11

(b) Evidentiary rulings regarding Reconsideration Motion

In formulating the foregoing tentative rulings on the Reconsideration Motion, this Court has considered the parties' evidentiary objections. Any ruling on those objections would not change any of the foregoing tentative rulings on the merits, but for the sake of completeness this Court rules as follows on the evidentiary objections:

The tentative ruling is to sustain Debtor's objection (dkt.1323) to the request of Church/Bird for judicial notice (dkt.1315), to the limited extent stated by Debtor (factual allegations in filed documents are not subject to judicial notice). But all of the documents are appropriate subjects of judicial notice for limited purposes. For example, it is appropriate for this Court to take judicial notice of the representations made by Debtor in her own MORs - not for the truth of those representations, but to illustrate Church/Bird's argument that Debtor's own figures do not support her requested relief. See RJN (dkt.1315) p.2:1 (requesting judicial notice of Debtor's MOR at dkt.1297).

The tentative rulings regarding Church/Bird's initial evidentiary objections (dkt.1316) are: overrule the objection to Debtor's assertions regarding her perception of a weakened negotiating position (dkt.1316, p.2:9-15) (but those assertions are irrelevant); sustain the objections to Debtor's assertions that Church and its counsel have obtained pandemic-related financial relief (*id.* p.2:15-21); sustain the objection to Debtor's declaration about the causes for her inability to obtain refinancing (without prejudice to admission of declarations from others) (*id.* p.2:22-26); overrule the objection to Debtor's statement about meeting or speaking with more than 30 potential buyers, lenders, or partners, but sustain the objection to their alleged statements about their reasons for not proceeding (*id.* pp.2:27-3:2); sustain the objections to Debtor's attempt to dispute the merits of her underlying (settled) disputes with Church/Bird and the alleged lack of damages to them (*id.* p.3:3-4:6); sustain the objections to Debtor's assertion that she is the only one who has not received any pandemic-related relief (*id.* p.4:7-9); sustain the objections to Debtor's assertion that Church's

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position is "not in keeping" with the spirit of speeches made by the Archbishop (*id.* p.4:9-15); sustain the objections to Debtor's allegations that Church and Ms. Perry (Bird's principal) allegedly would not be prejudiced by the proposed modification of the parties' agreement (*id.* p.4:15-20); sustain the relevance objection to Debtor's allegation that as a result of the pandemic she has "effectively been deprived of the time for which I originally bargained," but overrule the other objections to that statement, and sustain the objections to Debtor's assertion that with "everyone else" allegedly receiving pandemic relief it is "appropriate" for this Court to rewrite her agreement (*id.* p.4:21-26); overrule the objection to the Clark Declaration's assertions about the current and future value of the Roble Vista Property (the objections go to the weight of the evidence, but are insufficient to exclude that evidence) (*id.* p.5:2-7); overrule the objections to the Young Declaration's assertions about the values of 1910 Micheltorena Street and The Paramour (for the same reasons) (*id.* p.5:9-17); sustain the objections to the Melzer Declaration's assertions that Debtor has "sufficient borrowing capacity to meet her obligations" based on lack of sufficient foundation, but overrule all other objections to his declaration except for his assertion that another client's attempted \$49 million remodeling loan is "the single largest such loan in the Country" (*id.* pp.6:3-7:8); sustain the relevance objection to the Tilem Declaration's assertions about how he (and Debtor) perceived this Court's rulings and the possibility of converting this case to chapter 7 (Debtor's perceptions, and any actual negotiating weakness in arriving at the approved settlement agreement, are irrelevant) (*id.* p.7:9-18); sustain the objections to the Sebastian Declaration's assertions about his investment firm's potential willingness to purchase the Waverly property from Church (*id.* pp.7:19-8:6).

The tentative rulings regarding Church/Bird's evidentiary objections (dkt.1325) to Debtor's reply papers are: sustain the objections to Debtor's assertion that the real estate transaction in which she was found to have interfered "was never going to take place" and that "history has proven" that she did not interfere with the sale (dkt.1325, p.2:9-18); sustain the objections to Debtor's

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assertions that others have received pandemic relief while she has not and that the 5% interest rate in the parties' agreement is "above-market" (*id.* p.2:18-24); sustain the objections to Debtor's assertion that "reality" overrules legal objections to the admissibility of her alleged motivations to enter into her agreement (*id.* pp.2:24-3:2); sustain the objections to the Juckniess Declaration, except that the bare fact of a creditor supporting Debtor's Reconsideration Motion would be a relevant consideration for this Court in assessing any request for reconsideration, if there were any legal grounds for such relief (*id.* p.3:4-22); sustain the objections to the Martin Declaration for the same reasons (*id.* pp.3:24-28); sustain the objections to the Staats, Vitalos, Aeppel, and Parwani Declarations for the same reasons (*id.* p.4); sustain the objections to the Roopenian Declaration's assertions about the reasons for Debtor's alleged inability to obtain refinancing or other relief, except for the characterization of his opinion as that of a "lay witness" (*id.* p.5:1-7); sustain the objections to the Howard Declaration's assertions about what is the "primary" reason for Debtor's alleged inability to obtain funds and future ability to obtain financing, except for the characterization of his opinion as that of a "lay witness" (*id.* p.5:8-19).

Nothing in the foregoing summaries of the declarants' assertions should be interpreted as limiting this Court's rulings to such assertions. Except as otherwise stated above, the tentative ruling is that all of the creditors' evidentiary objections are sustained, and all of Debtor's are overruled.

(c) Debtor's transactions out of the ordinary course?

Debtor's status reports disclose that she has "restarted" her businesses of buying and selling antiques, clothing consulting, and design. See Stat.Rpts. (dkt.1296, p.4:8-11, and dkt. 1320, pp.4:22-5:1). See also Debtor Decl. (dkt.1322) p.9:1-6. Other papers filed by Debtor disclose that she is "manufacturing custom designer pillows (which typically sell between \$500-\$1,000 each)." Dkt. 1322, p.4:11-16 & 9:1-6. In addition, although renovations to the Paramour property (dkt.1322, p.8:22-28) might well qualify as "ordinary course," this Court has concerns about what Debtor means by "renovations" and whether they really are ordinary course.

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As noted in the tentative ruling for the (continued) status conference on 12/8/20, Debtor is directed to address (i) how, if Debtor previously had ceased engaging in various lines of business, restarting those lines now would qualify as "ordinary course" (11 U.S.C. 363(b)) and (ii) the historical cost/benefit and risks of those businesses. This Court takes judicial notice that Debtor repeatedly has been warned that she and any affiliated businesses must not "reopen" businesses (or engage in any other transactions out of the ordinary course) without notice to parties in interest and prior approval by this Court.

In addition to the legal requirements, there are practical concerns about Debtor acting without notice. For example, reopening closed lines of business typically involves up-front costs that the estate might not recover if the business is not successful; and some lines of business could expose the estate to liabilities.

These concerns are heightened by the history of this case. This Court previously found and concluded that Debtor failed to notify parties in interest, even including the co-owner of the Cliff's Edge business, of her acts regarding that business. This Court also found and concluded that Debtor:

... has disregarded her duties as a trustee for the benefit of creditors by ... reopening the Bridge [Tavern, LLC, aka Villain's Tavern,] business without notice or authorization by this Court ...
[emphasis added]

* * *

Just as the debtor acknowledges that causing Bridge to sell its business is a transaction out of the ordinary course, so is causing Bridge to reopen its closed business [emphasis in original].
[Memorialization of [adopted] Tentative Rulings (dkt.239), at pp.13-14, para. "(d)"; see *also id.* (dkt.238, 239) *passim*.]

Alternatively, supposing for the sake of discussion that Debtor's reopening of businesses, renovations to the Paramour, and other activities can be shown to have been in the ordinary course of Debtor's business (which does not appear so, with the possible exception of renovations), at the very least Debtor was required to disclose the finances of every line of business. See Order (dkt.22), p.2:18-22 ("For all reporting purposes – including Monthly Operating Reports ('MORs'), disclosure statements, etc. – Debtor must disclose all income, expenses, assets, and liabilities of [any] affiliated businesses").

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Contrary to that requirement, Debtor's MORs appear to provide only partial disclosure. Some individual items are listed - e.g., funds spent on "Items for resale." But there does not appear to be any separate accounting for different lines of the reopened business, nor any way to assess if any one line of business is losing money, making a profit, etc. Nor is it clear why some items are included in the DIP "general" account and others in the DIP "personal" account. Nor does Debtor's DIP Tax account appear to reflect any payment of sales taxes for any such businesses. See, e.g., MOR (11/30/20, dkt.1297), pp.2, 9 & 53; *but cf. id.* p.67 (P&L for Vintage Event Design, showing Nov. 2020 loss of \$4,681.22).

The tentative ruling is to set a **deadline of 2/2/21** for Debtor to file and serve papers responsive to the foregoing concerns, including:

(A) detailed statements of the historical and current profits or losses of each line of business engaged in by Debtor, including all associated expenses (except that, to the extent such information is already included in MORs or other filed documents, Debtor may incorporate specific information by reference);

(B) the exact time periods in which those business were operated historically and currently;

(C) what regulatory requirements apply to such businesses, including any permits, sales taxes, employment taxes, etc., and whether Debtor is in full compliance with all such regulatory requirements;

(D) whether Debtor is competent to run each line of business in which she is engaged;

(E) the potential risks of any such businesses; and

(F) what renovations have been performed at the Paramour, whether those renovations were performed by licensed contractors, whether permits were obtained for such renovations, the cost of such renovations, the increase in room rates or other revenues as a result of such renovations, and any other relevant information regarding such renovations.

For example, with respect to potential risks, the tentative ruling is that Debtor must address any liabilities to which the bankruptcy estate might be exposed if Debtor's pillows do not have fire-resistant filling or, conversely, if they have such filling but it causes allergic reactions. More broadly, Debtor must address whether she is competent to run her businesses - is she aware of issues such as fire retardance requirements, what furniture is or is not "antique," etc.?

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The tentative ruling is to set a **deadline of 2/11/21** for any other party in interest who chooses to file and serve response papers to address whether Debtor has violated her duties and what consequences should follow, and a **deadline of 2/18/21** for any reply by Debtor. Then this Court anticipates determining whether to issue an order directing Debtor to show cause why this Court should not impose sanctions or other consequences, such as restricting or terminating her authorization to act as debtor in possession.

(2) Deadlines/dates. This case was filed on 3/6/18.

(a) Bar date: 8/24/18 (dkt. 367, timely served per dkt. 383)

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 1/26/21 at 2:00 p.m. No written status report required.

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

(d) Limited Notice: A "Core Service List" has been established (see dkt.97, p.3:4-17, dkt.195), as modified by any updates (contact Debtor for latest list).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Dana Hollister

Represented By

**United States Bankruptcy Court
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CONT...

Dana Hollister

David A Tilem
Mark A Kressel
Alan M Insul

Chapter 11

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, January 26, 2021

Hearing Room 1545

10:00 AM

2:20-19479 Armenuhi Matevosian

Chapter 13

#1.00 Hrg re: Motion for relief from stay [RP]
[424 Oak Street, Unit 322, Glendale, CA 91204]

PS FUNDING, INC.
vs
DEBTOR

Docket 31

Tentative Ruling:

ZoomGov Instructions for all matters on today's calendar:

Meeting ID: 160 796 6550

Password: 618753

Meeting URL: <https://cacb.zoomgov.com/j/1607966550>

Telephone: +1 669 254 5252 or +1 646 828 7666 or 833 568 8864 (Toll Free)

Please connect at least 5 minutes before the start of your hearing, and wait with your microphone muted until your matter is called. You do not need to call Chambers for advance approval. ZoomGov appearances are free.

Time when these tentative rulings were first posted (for purposes of determining when anyone contesting the tentative ruling must notify other parties of intent to do so, per the "Procedures of Judge Bason," posted at www.cacb.uscourts.gov): see the time stamp at the bottom of this page.

Tentative Ruling for In re Matevosian [2:20-bk-19479-NB]:

Tentative Ruling for 1/26/21:

Appearances required. There is no tentative ruling, but the parties are directed to address the following issues.

At the hearing on 12/22/20 this Court was persuaded to continue this matter conditioned on Debtor paying regular monthly payments for December 2020 and January 2021. See Order (dkt.56). Movant initially reported (dkt.57) that Debtor did not make those payments.

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Armenuhi Matevosian

Chapter 13

Debtor subsequently filed a (belated) supplemental opposition (dkt.59) in which she alleges (*id.*, p.4:20-21) that she mailed the December payment on an unspecified date after the hearing on 12/22/20. She also offers explanations for the late wire transfers for the January payment.

Movant's supplemental reply points out Debtor's lack of evidence of mailing the December 2020 payment (no tracking number etc.), and Movant declares (dkt.63, at PDF p.10:21-22) that it has yet to receive any such payment. Movant also points to (a) the untimeliness of the January 2021 adequate protection payment and other missed deadlines, (b) assertions that insurance on the Oak Street property expired on 11/7/20, and insurance on the Sinclair property expired on 11/21/20, (c) evidence of negative equity in those two properties, (d) Debtor's allegedly false or misleading information, and (e) the lack of evidence that family members are willing and able to provide contributions, and the paucity of evidence that Raphael Mendez or his business is able to pay Debtor in dollar amounts needed to fund Debtor's monthly shortfall. See Supp. Reply (dkt.63) *passim*.

The parties are directed to address the foregoing issues. This Court is particularly troubled by the missing December 2020 payment, the alleged postpetition expiration of insurance (which is troubling even if the insurance has since been restored), and questions about whether the three properties are necessary to an effective reorganization. In addition, Debtor's failure to meet past deadlines makes it likely that, if this Court is persuaded not to grant immediate termination of the automatic stay, any adequate protection order ("APO") will have a shorter period than normal to cure missed payments.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

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CONT... Armenuhi Matevosian

Chapter 13

Tentative Ruling for 12/22/20:
Appearances are not required.

Grant as set forth below.

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

Termination

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

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

Effective date of relief

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

Co-debtor stay

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

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

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Courtroom 1545 Calendar**

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Hearing Room 1545

10:00 AM

CONT... Armenuhi Matevosian

Chapter 13

Debtor(s):

Armenuhi Matevosian

Represented By
Dana M Douglas

Movant(s):

PS Funding, Inc.

Represented By
Andrew Still
Eric S Pezold

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Tuesday, January 26, 2021

Hearing Room 1545

10:00 AM

2:20-19479 Armenuhi Matevosian

Chapter 13

#2.00 Hrg re: Motion for relief from stay [RP]
[121 Sinclair Ave. Unit 245 Glendale, CA 91206]

PS FUNDING, INC.
vs
DEBTOR

Docket 32

Tentative Ruling:

Tentative Ruling for 1/26/21:

Appearances required. See tentative ruling for calendar no. 1 (1/26/21 at 10:00 a.m.).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 12/22/20:

Appearances are not required.

Grant as set forth below.

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

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Tuesday, January 26, 2021

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10:00 AM

CONT... Armenuhi Matevosian

Chapter 13

Termination

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

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

Effective date of relief

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

Co-debtor stay

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

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Armenuhi Matevosian

Represented By
Dana M Douglas

Movant(s):

PS Funding, Inc., master servicing

Represented By
Andrew Still

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, January 26, 2021

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10:00 AM

CONT... Armenuhi Matevosian

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Tuesday, January 26, 2021

Hearing Room 1545

10:00 AM

2:20-19479 Armenuhi Matevosian

Chapter 13

#3.00 Hrg re: Motion for relief from stay [RP]
[1349 N. Columbus Ave Unit 2 Glendale, CA 91202

PS FUNDING, INC.
vs
DEBTOR

Docket 33

Tentative Ruling:

Tentative Ruling for 1/26/21:

Appearances required. See tentative ruling for calendar no. 1 (1/26/21 at 10:00 a.m.).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 12/22/20:

Appearances are not required.

Grant as set forth below.

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

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CONT... Armenuhi Matevosian

Chapter 13

Termination

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

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

Effective date of relief

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

Co-debtor stay

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

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Armenuhi Matevosian

Represented By
Dana M Douglas

Movant(s):

PS Funding, Inc.

Represented By
Andrew Still
Eric S Pezold

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, January 26, 2021

Hearing Room 1545

10:00 AM

CONT... Armenuhi Matevosian

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Tuesday, January 26, 2021

Hearing Room 1545

10:00 AM

2:20-15207 Nora Alicia Saenz

Chapter 13

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

U.S. BANK, NATIONAL ASSOC
vs
DEBTOR

Docket 54

Tentative Ruling:

Appearances required.

There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 56).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Nora Alicia Saenz

Represented By
Jaime A Cuevas Jr.

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

Tuesday, January 26, 2021

Hearing Room 1545

10:00 AM

CONT... Nora Alicia Saenz

Chapter 13

Movant(s):

U.S. Bank, National Association as

Represented By
Diane Weifenbach

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Tuesday, January 26, 2021

Hearing Room 1545

10:00 AM

2:20-20061 Ruben Montes Trejo

Chapter 13

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

1SHARPE OPPORTUNITY INTERMEDIATE
TRUST
vs
DEBTOR

Docket 23

Tentative Ruling:

Appearances are not required.
Grant as set forth below.

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

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1), (d)(2), and (d)(4).

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

Retroactive relief

Grant the request for retroactive annulment of the stay. See *In re Fjeldsted*, 293 B.R. 12 (9th Cir. BAP 2003); and see also *In re Williams*, 323 B.R. 691, 697-702 (9th Cir. BAP 2005) (various issues involving annulment, and application of *Fjeldsted*), *aff'd*, 204 Fed.Appx. 582 (9th Cir. 2006), *overruled on other issues*, *In re Perl*, 811 F.3d 1120 (9th Cir. 2016) (scope of automatic stay).

Relief notwithstanding future bankruptcy cases.

Grant the following relief pursuant to 11 U.S.C. 362(d)(4) and the legal

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Hearing Room 1545

10:00 AM

CONT...

Ruben Montes Trejo

Chapter 13

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

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

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

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

Effective date of relief

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

Co-debtor stay

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

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

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CONT... Ruben Montes Trejo

Chapter 13

COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Ruben Montes Trejo

Represented By
Marc A Goldbach

Movant(s):

1SHARPE OPPORTUNITY

Represented By
Reilly D Wilkinson

Trustee(s):

Kathy A Dockery (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, January 26, 2021

Hearing Room 1545

10:00 AM

2:20-20260 33 Quincy Avenue LLC

Chapter 11

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

ACCESS INVESTMENT, LLC
vs
DEBTOR

Docket 40

*** VACATED *** REASON: This matter is scheduled to be heard at a
different time. See #25 at 1:00 p.m.

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

33 Quincy Avenue LLC

Represented By
Michael Jay Berger

Movant(s):

Access Investment, LLC

Represented By
Glenn C. Kelble

Trustee(s):

Susan K Seflin (TR)

Pro Se

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

Tuesday, January 26, 2021

Hearing Room 1545

10:00 AM

2:19-21396 Jay Balingcos

Chapter 13

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

ALLY FINANCIAL
vs
DEBTOR

Docket 55

Tentative Ruling:

Appearances are not required.

Grant.

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

Termination

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

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

Effective date of relief

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

Co-debtor stay

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

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

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Tuesday, January 26, 2021

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10:00 AM

CONT... **Jay Balingcos**

Chapter 13

are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Jay Balingcos

Represented By
Julie J Villalobos

Movant(s):

Ally Financial

Represented By
Josephine E Salmon

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Tuesday, January 26, 2021

Hearing Room 1545

10:00 AM

2:20-20909 VEEJ Corp

Chapter 11

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

**MOSS ATKINSON FAMILY TRUST
vs
DEBTOR**

Docket 30

***** VACATED *** REASON: This matter is scheduled to be heard at a
different time. See # 40 at 1:00 p.m.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

VEEJ Corp

Represented By
Jeffrey S Shinbrot

Movant(s):

Moss Atkinson Family Trust

Represented By
Giovanni Orantes

Trustee(s):

Susan K Sefflin (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, January 26, 2021

Hearing Room 1545

10:00 AM

2:20-10555 Christopher Omotunde

Chapter 13

#9.00 Cont'd hrg re: Motion for relief from stay [RP]
fr.7/7/20, 9/15/20, 12/1/20

DEUTSCHE BANK NATIONAL TRUST CO
vs
DEBTOR

Docket 33

Tentative Ruling:

Tentative Ruling for 1/26/21:
Appearances required.

This matter has been continued repeatedly since 7/7/20. At the 12/1/20 hearing, this court was persuaded to continue the matter yet again, to allow Debtor an opportunity to amend the plan to include the alleged arrears. The docket does not reflect any such amendment. Why not?

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 12/1/20:
Appearances required.

At the 9/15/20 hearing, this court was persuaded to continue the matter to

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Tuesday, January 26, 2021

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10:00 AM

CONT... Christopher Omotunde

Chapter 13

allow the parties to negotiate an agreement regarding the alleged arrears from April to July. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 35).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 9/15/20:

Appearances required.

Pursuant to Judge Bason's COVID19 Procedures, **ONLY TELEPHONIC APPEARANCES WILL BE PERMITTED until further notice**. Please contact CourtCall at (888) 882-6878 to make arrangements for any telephonic appearance. There is no need to contact the Court for permission. Parties who are not represented by an attorney will be able to use CourtCall for free through 9/30/20. Attorneys will receive a 25% discount (for more information, see www.cacb.uscourts.gov, "Judges," "Bason, N.," "Telephonic Instructions").

At the 8/4/20 hearing, Movant's counsel informed this Court that the notice regarding forbearance (dkt. 37) was for payments from July onward, rather than to address the arrears from April to July. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 35).

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10:00 AM

CONT... Christopher Omotunde

Chapter 13

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

Tentative Ruling for 8/4/20:

Continue to 12/8/20 at 10:00 a.m., based on Movant's notice regarding forbearance (dkt.37). Appearances are not required on 8/4/20. If you wish to dispute the tentative ruling you must notify other parties of your intent to appear telephonically.

Pursuant to Judge Bason's COVID19 Procedures, **ONLY TELEPHONIC APPEARANCES WILL BE PERMITTED until further notice.** Please contact CourtCall at (888) 882-6878 to make arrangements for any telephonic appearance. There is no need to contact the Court for permission. Parties who are not represented by an attorney will be able to use CourtCall for free through 9/30/20. Attorneys will receive a 25% discount (for more information, see www.cacb.uscourts.gov, "Judges," "Bason, N.," "Telephonic Instructions").

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

Tentative Ruling for 7/7/20:

Appearances required.

Pursuant to Judge Bason's COVID19 Procedures, **ONLY TELEPHONIC APPEARANCES WILL BE PERMITTED until further notice.** Please contact

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10:00 AM

CONT... Christopher Omotunde

Chapter 13

CourtCall at (888) 882-6878 to make arrangements for any telephonic appearance. There is no need to contact the Court for permission. Parties who are not represented by an attorney will be able to use CourtCall for free through 8/31/20. Attorneys will receive a 25% discount (for more information, see www.cacb.uscourts.gov, "Judges," "Bason, N.," "Telephonic Instructions").

There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 35).

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

Party Information

Debtor(s):

Christopher Omotunde

Represented By
Stephen S Smyth

Movant(s):

Deutsche Bank National Trust

Represented By
Jennifer C Wong
Josephine E Salmon

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Tuesday, January 26, 2021

Hearing Room 1545

10:00 AM

2:16-25325 Karen Deshawn Taylor

Chapter 13

#10.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 5/19/20, 7/14/20, 8/18/20, 10/27/20, 12/8/20

U.S. BANK NATIONAL ASSOCIATION
vs
DEBTOR

Docket 78

Tentative Ruling:

Tentative Ruling for 1/26/21:
Appearances required.

This matter has been continued repeatedly since 5/19/20 for a possible loan modification or other resolution. The docket does not reflect any progress. Why not?

In addition, at the 12/8/20 hearing, this Court directed Debtor to give notice of the continued hearing no later than 12/10/20. As of the date of preparation for this tentative ruling, such notice has not been filed. Why not?

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 12/8/20:
Appearances required.

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10:00 AM

CONT... Karen Deshawn Taylor

Chapter 13

At the 10/27/20 hearing, this Court was persuaded to continue this matter based on the debtor's participation in the Loan Modification Management Pilot Program and completion of the three-month trial payments and to allow the parties an opportunity to complete the final paperwork. There is no tentative ruling, but the parties should be prepared to address whether they will agree to the terms of an adequate protection order.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 10/27/20:
Appearances required.

At the 8/18/20 hearing, this Court was persuaded to continue this matter based on the debtor's participation in the Loan Modification Management Pilot Program. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order.

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

**United States Bankruptcy Court
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Tuesday, January 26, 2021

Hearing Room 1545

10:00 AM

CONT... Karen Deshawn Taylor

Chapter 13

COVID-19 procedures, all appearances are telephonic via CourtCall at (888) 882-6878.

Tentative Ruling for 8/18/20 (same as for 7/14/20 and 5/19/20 except for CourtCall deadline in brackets):

Appearances required.

Pursuant to Judge Bason's COVID19 Procedures, **ONLY TELEPHONIC APPEARANCES WILL BE PERMITTED until further notice.** Please contact CourtCall at (888) 882-6878 to make arrangements for any telephonic appearance. There is no need to contact the Court for permission. Parties who are not represented by an attorney will be able to use CourtCall for free through [9/30/20]. Attorneys will receive a 25% discount (for more information, see www.cacb.uscourts.gov, "Judges," "Bason, N.," "Telephonic Instructions").

There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 82).

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

Party Information

Debtor(s):

Karen Deshawn Taylor

Represented By
Lionel E Giron

Movant(s):

U.S. Bank National Association

Represented By
Matthew R. Clark III

**United States Bankruptcy Court
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Tuesday, January 26, 2021

Hearing Room 1545

10:00 AM

CONT... Karen Deshawn Taylor

Chapter 13

Sean C Ferry
April Harriott
Eric P Enciso

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Tuesday, January 26, 2021

Hearing Room 1545

10:00 AM

2:20-15355 Jeanette Jefferson

Chapter 13

#11.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 10/27/20, 12/8/20

U.S. BANK NATIONAL ASSOC
VS
DEBTOR

Docket 30

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

Tentative Ruling:

Party Information

Debtor(s):

Jeanette Jefferson

Represented By
Matthew D. Resnik

Movant(s):

U.S. Bank National Association, not

Represented By
Sean C Ferry
Kristin A Zilberstein

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Tuesday, January 26, 2021

Hearing Room 1545

10:00 AM

2:19-23153 Juan Hernandez Contreras

Chapter 13

#12.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 5/19/20, 6/30/20, 8/4/20, 11/10/20, 12/22/20

LAKEVIEW LOAN SERVICING, LLC
VS
DEBTOR

Docket 36

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

Tentative Ruling:

Party Information

Debtor(s):

Juan Hernandez Contreras

Represented By
Juanita V Miller

Movant(s):

Lakeview Loan Servicing, LLC

Represented By
Erin M McCartney
Josephine E Salmon

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Tuesday, January 26, 2021

Hearing Room 1545

11:00 AM

2:19-10153 Christian Rossil

Chapter 7

#1.00 Hrg re: Trustee's final report and account;
Application for fees and expenses
[David M. Goodrich, Ch. 7 Trustee]

Docket 149

Tentative Ruling:

Appearances are not required.

Approve the Trustee's final report and allow the Trustee \$1,250.00 in fees and \$127.11 in expenses, for a total award of \$1,377.11.

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

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Christian Rossil

Represented By
Todd B Becker

**United States Bankruptcy Court
Central District of California
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Tuesday, January 26, 2021

Hearing Room 1545

11:00 AM

CONT... Christian Rossil

Chapter 7

Trustee(s):

David M Goodrich (TR)

Pro Se

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

Tuesday, January 26, 2021

Hearing Room 1545

11:00 AM

2:19-10153 Christian Rossil

Chapter 7

#2.00 Hrg re: First and final application for award of compensation and reimbursement of expenses [Menchaca & Company LLP, Accountant, Ch. 7 Trustee]

Docket 148

Tentative Ruling:

Appearances are not required.

Grant the application and allow \$2,122.50 in fees and \$0 in expenses, for a total award of \$2,122.50, subject to a voluntary reduction to a \$1,000.00 flat fee as reflected in the Trustee's final report (dkt.149) and notice thereof (dkt.150).

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

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Christian Rossil

Represented By
Todd B Becker

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, January 26, 2021

Hearing Room 1545

11:00 AM

CONT... Christian Rossil

Chapter 7

Trustee(s):

David M Goodrich (TR)

Pro Se

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

Tuesday, January 26, 2021

Hearing Room 1545

11:00 AM

2:18-22904 Sasha Demovsky-Kapustyan

Chapter 13

Adv#: 2:20-01666 Demovsky-Kapustyan v. Vayntrub et al

#3.00 Status Conference re: Complaint for Turnover of Property of the Estate, Unjust Enrichment

Docket 1

Tentative Ruling:

Appearances required.

(A) Current issues

(1) Defendants have not filed a response

Plaintiff's unilateral status report (adv. dkt. 5) states that Plaintiff granted Defendants David and Irena Vayntrub (the "Vayntrubs") an extension to the 12/16/20 deadline to respond to his complaint, but does not state how long an extension was granted and the Vayntrubs did not participate in preparing a joint status report or file a unilateral status report. Plaintiff should be prepared to address the status of his communications with the Vayntrubs' counsel.

On a related issue, Plaintiff's unilateral status report favors mediation; but if the Vayntrubs are not responding then it appears that mediation might not be productive at this time. Accordingly, this Court's standard provisions regarding mediation have been intentionally omitted from part "(B)(2)" of this Tentative Ruling, below. If the Vayntrubs do not appear, Plaintiff is directed to address whether Plaintiff will seek a default judgment against all defendants.

(2) Out of date form

Plaintiff has used an outdated 2012 version of the Status Report (Local Form F 7016-1.STATUS.REPORT). Plaintiff is directed in future to use the latest version.

(B) Standard requirements

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.

**United States Bankruptcy Court
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Tuesday, January 26, 2021

Hearing Room 1545

11:00 AM

CONT... Sasha Demovsky-Kapustyan

Chapter 13

(1) Venue/jurisdiction/authority

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

(2) Mediation [Intentionally omitted].

(3) Deadlines

This adversary proceeding has been pending since 11/16/20.
Joinder of parties/amendment of pleadings-deadline: N/A
Discovery cutoff (for completion of discovery): N/A
Expert(s) - deadline for reports: N/A
Expert(s) - discovery cutoff (if different from above): N/A
Dispositive motions to be heard no later than: N/A
Joint Status Report: 3/9/21
Continued status conference: 3/23/21 at 11:00 a.m.
Lodge Joint Proposed Pre-Trial Order: N/A
Pretrial conference: N/A
Deliver trial exhibits to other parties and chambers, including direct testimony by declaration unless excused: N/A
Trial commencement: N/A

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

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CONT... **Sasha Demovsky-Kapustyan**

Chapter 13

wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Sasha Demovsky-Kapustyan

Represented By
Richard T Baum

Defendant(s):

David Vayntrub

Pro Se

Irena Vayntrub

Pro Se

Absolute Herbal Pain Solutions, Inc.

Pro Se

Plaintiff(s):

Sasha Demovsky-Kapustyan

Represented By
Richard T Baum

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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Hearing Room 1545

11:00 AM

2:20-17525 Nicole R. Prause

Chapter 7

Adv#: 2:20-01658 Hilton, Jr. v. Prause

#4.00 Status conference re: Complaint to determine dischargeability of debt pursuant to 11 U.S.C. section 523(a)(6)

Docket 1

Tentative Ruling:

Continue to 4/27/21 at 11:00 a.m.
Appearances are not required on 1/26/21.

The tentative ruling is to continue the hearing to 4/27/21 as requested by the parties in the joint status report (see adv. dkt. 4).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Nicole R. Prause

Represented By
Michael Jay Berger

Defendant(s):

Nicole R. Prause

Pro Se

**United States Bankruptcy Court
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11:00 AM

CONT... Nicole R. Prause

Chapter 7

Plaintiff(s):

Donald L. Hilton Jr.

Represented By
Jeffrey J Hagen

Trustee(s):

Elissa Miller (TR)

Pro Se

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Hearing Room 1545

11:00 AM

2:20-17525 Nicole R. Prause

Chapter 7

Adv#: 2:20-01662 Minc v. Prause

#5.00 Status conference re: Complaint for monetary and equitable relief and demand for a jury trial

Docket 1

***** VACATED *** REASON: Cont. to 2/9/21 to be heard contemporaneously with motion to stay per 12/8/20 ruling.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Nicole R. Prause

Represented By
Michael Jay Berger

Defendant(s):

Nicole R. Prause

Represented By
Michael Jay Berger

Plaintiff(s):

Aaron M Mine

Pro Se

Trustee(s):

Elissa Miller (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 1545

11:00 AM

2:20-17525 Nicole R. Prause

Chapter 7

Adv#: 2:20-01663 Rhodes v. Prause

#6.00 Status conference re: Complaint to determine
nondischargeability of debt pursuant to 11 U.S.C.
section 523(a)(6)

Docket 2

***** VACATED *** REASON: Order approving stip to cont'd s/c to
February 9, 2021 at 11:00 a.m. [dkt. 7]**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Nicole R. Prause

Represented By
Michael Jay Berger

Defendant(s):

Nicole R. Prause

Pro Se

Plaintiff(s):

Alexander Rhodes

Represented By
Carl Mueller

Trustee(s):

Elissa Miller (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Tuesday, January 26, 2021

Hearing Room 1545

11:00 AM

2:20-17672 Liberors LLC

Chapter 7

Adv#: 2:20-01664 Rhodes v. Liberors LLC

#7.00 Status conference re: Complaint to determine
nondischargeability of debt pursuant to 11 U.S.C.
section 523(a)(6)

Docket 2

***** VACATED *** REASON: Order approving stip to cont'd s/c to
February 9, 2021 at 11:00 a.m. [dkt. 7]**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Liberors LLC

Represented By
Michael Jay Berger

Defendant(s):

Liberors LLC

Pro Se

Plaintiff(s):

Alexander Rhodes

Represented By
Carl Mueller

Trustee(s):

Elissa Miller (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, January 26, 2021

Hearing Room 1545

11:00 AM

2:17-23866 Felisa Dee Richards

Chapter 13

Adv#: 2:20-01665 Richards v. Ajax Mortgage Loan Trust 2018-G, Mortgage-Backed S

#8.00 Status conference re: Complaint

Docket 1

*** VACATED *** REASON: This matter is scheduled to be heard at a
different time. See #3 at 2:00 p.m

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Felisa Dee Richards

Represented By
William D Bowen

Defendant(s):

Ajax Mortgage Loan Trust 2018-G,

Pro Se

Plaintiff(s):

Felisa Dee Richards

Represented By
William D Bowen

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Tuesday, January 26, 2021

Hearing Room 1545

11:00 AM

2:18-12286 Kevin James Quinn

Chapter 7

Adv#: 2:18-01158 Duff v. Quinn

#9.00 Cont'd Status Conference re: Complaint for Objecting to Debtor's Discharge Pursuant to Section 727 of the Bankruptcy Code fr. 08/07/18, 11/27/18, 2/5/19, 3/28/19, 06/06/19; 08/08/19, 11/19/19, 02/18/20, 5/20/20, 6/2/20, 7/28/20, 9/15/20, 12/1/20

Docket 1

Tentative Ruling:

Tentative Ruling for 1/26/21:

Continue to 3/2/21 at 11:00 a.m. for issuance of a Memorandum Decision on the merits. Appearances are not required on 1/26/21.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 7/28/20:

Appearances required.

Pursuant to Judge Bason's COVID19 Procedures, **ONLY TELEPHONIC APPEARANCES WILL BE PERMITTED until further notice.** Please contact CourtCall at (888) 882-6878 to make arrangements for any telephonic appearance. There is no need to contact the Court for permission. Parties who are not represented by an attorney will be able to use CourtCall for free

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11:00 AM

CONT...

Kevin James Quinn

Chapter 7

through 8/31/20. Attorneys will receive a 25% discount (for more information, see www.cacb.uscourts.gov, "Judges," "Bason, N.," "Telephonic Instructions").

(A) Current issues:

This matter was continued from 6/2/20 to this date to allow additional time for the parties to meet and confer with Debtor/Defendant's counsel, John Wolcott, Esq., about the issues raised in this Court's "Order (1) Taking Trial Off Calendar and (2) Setting Status Conference" (adv. dkt. 37). There is no tentative ruling, but the parties should be prepared to update this Court on the status of those efforts and whether they have agreed to any proposed trial procedures.

(B) Standard requirements

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (adv.dkt.14).

(2) Deadlines: [intentionally omitted]

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

Tentative Ruling for 6/2/20:

Appearances required.

Pursuant to Judge Bason's COVID19 Procedures, **ONLY TELEPHONIC**

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CONT... Kevin James Quinn

Chapter 7

APPEARANCES WILL BE PERMITTED until further notice. Please contact CourtCall at (888) 882-6878 to make arrangements for any telephonic appearance. There is no need to contact the Court for permission. Parties who are not represented by an attorney will be able to use CourtCall for free through 6/30/20. Attorneys will receive a 25% discount (for more information, see www.cacb.uscourts.gov, "Judges," "Bason, N.," "Telephonic Instructions").

(A) Current issues:

There is no tentative ruling. The parties are directed to address the issues raised in this Court's "Order (1) Taking Trial Off Calendar and (2) Setting Status Conference" (adv. dkt. 37).

(B) Standard requirements

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (adv.dkt.14).

(2) Deadlines: [intentionally omitted]

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

Tentative Ruling for 8/8/19:

Appearances required.

Tentative Ruling for 2/5/19:

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CONT... Kevin James Quinn

Chapter 7

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures"). There is no tentative ruling, but the parties should be prepared to address the following revisions to this Court's scheduling order (adv. dkt. 12). See Joint Status Report (adv. dkt. 14) and Notice of Ruling (adv. dkt. 15).

(a) Deadlines: This adversary proceeding has been pending since 5/24/18. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Discovery cutoff (for *completion* of discovery): 2/15/19.

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

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

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

Joint Status Report: N/A

Continued status conference: N/A

Lodge Joint Proposed Pre-Trial Order: 2/21/19

Pretrial conference: N/A

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

Trial commencement: 2/28/19 at 9:00 a.m.

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

Tentative Ruling for 11/27/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges,"

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CONT... Kevin James Quinn

Chapter 7

"Bason, N.", "Instructions/Procedures"). There is no tentative ruling, but the parties should be prepared to address a new discovery deadline and other revisions to this Court's scheduling order (adv. dkt. 12). See Joint Status Report (adv. dkt. 14).

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

Tentative Ruling for 8/7/18:

Appearances required. The court has reviewed defendant/debtor Quinn's unilateral status report (dkt. 7) and the other filed documents and records in this adversary proceeding. Counsel for the plaintiff/creditor Duff is directed to address why no status report was executed by plaintiff.

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority.

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

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CONT... Kevin James Quinn

Chapter 7

nondischargeability encompasses authority to liquidate debt and enter final judgment). See generally *In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation. Is there is any reason why this court should not order the parties to mediation before one of the volunteer mediators (*not* a Bankruptcy Judge), and meanwhile set the deadlines set forth below? The tentative ruling is to set a deadline of 8/24/18 for the parties to lodge a proposed mediation order (the parties are directed to use the time between now and that deadline to find a mutually agreeable mediator whose schedule can accommodate the needs of this matter; and if the parties cannot even agree on a mediator they may lodge separate orders and Judge Bason will chose among them, or issue his own order).

(3) Deadlines: This adversary proceeding has been pending since 5/24/18. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Discovery cutoff (for completion of discovery): 10/8/18.

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

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

Dispositive motions to be heard no later than: 11/27/18.

Joint Status Report: 11/13/18.

Continued status conference: 11/27/18 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

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

Trial commencement: TBD

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

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CONT... Kevin James Quinn

Chapter 7

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

Party Information

Debtor(s):

Kevin James Quinn

Represented By
John F Wolcott

Defendant(s):

Kevin James Quinn

Represented By
John F Wolcott

Plaintiff(s):

James T Duff

Represented By
James T Duff

Trustee(s):

David M Goodrich (TR)

Pro Se

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Hearing Room 1545

11:00 AM

2:19-11809 Schaefer Ambulance Service, Inc

Chapter 11

Adv#: 2:20-01149 The SAS Creditor Trust v. L.A. Paint and Body Works, Inc. a California

#10.00 Cont'd status conference re: Complaint for 1) Violation of the Automatic Stay [11 U.S.C. Section 362(a)]; 2) Violation of Pan Injunctions; and 3) Turnover of Property of the Estate [11 U.S.C. Section 542] fr. 9/15/20, 11/10/20, 12/22/20

Docket 1

***** VACATED *** REASON: This matter is scheduled to be heard at a different time. See #23 at 1:00 p.m.**

Tentative Ruling:

Party Information

Debtor(s):

Schaefer Ambulance Service, Inc

Represented By
Craig G Margulies
Monserrat Morales

Defendant(s):

L.A. Paint and Body Works, Inc. a

Pro Se

Plaintiff(s):

The SAS Creditor Trust

Represented By
Monserrat Morales

**United States Bankruptcy Court
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11:00 AM

2:19-14137 Zeta Graff

Chapter 7

Adv#: 2:19-01218 Vaatete v. Graff

- #11.00** Cont'd Status Conference re: Complaint to Determine Non-Dischargeability of Debt Pursuant to 11 U.S.C. Section 523(a)(6) and 11 U.S.C. Section 727(c) fr. 9/24/19, 11/12/19, 12/17/19, 1/14/20, 02/18/20, 4/7/20, 6/30/20, 9/29/20

Docket 1

Tentative Ruling:

Tentative Ruling for 1/26/21:

Continue to 5/11/21 at 11:00 a.m., with a status report due 4/27/21, in view of the scheduled trial in nonbankruptcy court on 8/23/21. See Status Report (adv.dkt.42). This Court anticipates further continuances until the nonbankruptcy trial has been completed, unless any interim status report reflects a reason to proceed with a status conference in this Bankruptcy Court. Appearances are not required on 1/26/21.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

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11:00 AM

CONT... Zeta Graff

Chapter 7

Debtor(s):

Zeta Graff

Represented By
Michael F Chekian

Defendant(s):

Zeta Graff

Represented By
Zachary D Schorr

Plaintiff(s):

Olivia Vaatete

Represented By
Scott D Dinsmore
Brennan Mitch

Trustee(s):

Sam S Leslie (TR)

Represented By
Elissa Miller

**United States Bankruptcy Court
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11:00 AM

2:19-14137 Zeta Graff

Chapter 7

#12.00 Cont'd Order to Show Cause re: Why Debtor Zeta Graff Should Not be Held in Contempt for Violating This Court's "Order Granting Chapter 7 Trustee's Motion for Order (1) Compelling Debtor Zeta Graff and Those in Possession With Her to Turnover Property of the Estate; and (2) Authorizing Trustee to Utilize Services of The United States Marshals to Enforce Court Order"
fr. 10/27/20, 12/1/20

Docket 271

***** VACATED *** REASON: Stipulation (dkt.316) and order thereon**

Tentative Ruling:

Party Information

Debtor(s):

Zeta Graff

Pro Se

Trustee(s):

Sam S Leslie (TR)

Represented By
Elissa Miller

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

11:00 AM

2:20-15089 Lydia Ariadna Avila Vargas

Chapter 7

#13.00 Cont'd hrg re: Reaffirmation Agreement
[Ally Bank]
fr. 10/7/20, 12/8/20

Docket 8

Tentative Ruling:

Tentative Ruling for 12/8/20:
Appearances required.

There is no tentative ruling, but the parties are directed to address whether Debtor has redeemed the vehicle, and alternatively whether this Court should or should not approve the proposed reaffirmation agreement.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Lydia Ariadna Avila Vargas

Represented By
Tamar Terzian

Trustee(s):

John P Pringle (TR)

Pro Se

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Courtroom 1545 Calendar**

Tuesday, January 26, 2021

Hearing Room 1545

1:00 PM

2:20-18370 New Hillcrest Inc., a Cayman Island Corporation

Chapter 11

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

AMIT TIDHAR
vs
DEBTOR

Docket 48

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 3, 1/26/21 at 1:00 p.m.).

Party Information

Debtor(s):

New Hillcrest Inc., a Cayman Island

Represented By
Brett Ramsaur

Movant(s):

Amit Tidhar

Represented By
Sharon Z. Weiss

**United States Bankruptcy Court
Central District of California
Los Angeles
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Courtroom 1545 Calendar**

Tuesday, January 26, 2021

Hearing Room 1545

1:00 PM

2:20-18370 New Hillcrest Inc., a Cayman Island Corporation

Chapter 11

#2.00 Hrg re: Motion for Order Authorizing Postpetition Financing on Secured Basis Pursuant to 11 U.S.C. § 364(c)(2) to Provide for the Refinance of 701 North Hillcrest Road, Beverly Hills, California 90210

Docket 46

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 3, 1/26/21 at 1:00 p.m.).

Party Information

Debtor(s):

New Hillcrest Inc., a Cayman Island

Represented By
Brett Ramsaur

Movant(s):

New Hillcrest Inc., a Cayman Island

Represented By
Brett Ramsaur

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

Tuesday, January 26, 2021

Hearing Room 1545

1:00 PM

2:20-18370 New Hillcrest Inc., a Cayman Island Corporation

Chapter 11

#3.00 Cont'd Status Conference re: Chapter 11 Case
fr. 10/6/20, 12/1/20

Docket 1

Tentative Ruling:

Tentative Ruling for 1/26/21:

Appearances required.

(1) Current issues

(a) Finance motion (dkt. 46), Opposition of Amit Tidhar (dkt. 54, 55), no reply is on file

There is no tentative ruling. Debtor should be prepared to address the issues raised by Mr. Tidhar in opposition to the motion.

(b) Amit Tidhar's ("Movant") motion for relief from stay (dkt. 48, "R/S Motion"), Debtor's opposition (dkt. 52), Movant's reply (dkt. 57)

There is no tentative ruling. The outcome of this motion depends on this Court's ruling on the Finance Motion.

(c) Debtor's motion to extend exclusivity periods (dkt. 51) and ex parte motion to amend scheduling order (dkt. 53), no opposition is on file

The tentative ruling is to grant the motions and extend Debtor's deadlines (i) to file a plan to 5/13/21 and (ii) gain acceptance of the plan to 7/12/21.

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

(d) Monthly operating reports ("MORs")

This Court's tentative ruling for 12/1/20 cautioned Debtor that failure to file MORs might be cause for dismissal, conversion of this case to chapter 7, or other relief. Notwithstanding that admonition, Debtor filed its November MOR more than a month late (dkt. 56) and filed its December MOR four days

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CONT... **New Hillcrest Inc., a Cayman Island Corporation** **Chapter 11**

late. What remedy should this Court impose for Debtor's repeated failure to timely comply with its obligations as a debtor-in-possession and this Court's orders?

- (2) Deadlines/dates. This case was filed on 9/15/20.
- (a) Bar date: 12/7/20 (dkt.23; timely served, dkt.25)
 - (b) Procedures order: dkt.4 (timely served, dkt.6, supplemented by dkt.21)
 - (c) Plan/Disclosure Statement*: file by 5/13/21. See the **revised** "Procedures of Judge Bason" (available at www.cacb.uscourts.gov) (search for "Chapter 11: Plan").
 - (d) Continued status conference: 3/2/21 at 1:00 p.m. No written status report required.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 12/1/20:
Appearances are not required.

- (1) Current issues
- (a) Application to employ Ramsaur Law Office as general bankruptcy counsel (dkt. 31), supplemental Ramsaur declaration (dkt. 32), order setting hearing (dkt. 37), supplemental declarations of Ramsaur, Djaafar & Sudwikatmono (dkt. 40)

The tentative ruling is to grant the Employment Application, effective as of 9/15/20, subject to this Court's standard employment terms. The tentative

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CONT... **New Hillcrest Inc., a Cayman Island Corporation** **Chapter 11**

ruling is also to disapprove the purported waiver by Debtor/the bankruptcy estate of any actual or potential conflicts (See Ex.3, pp.15-16).

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

(b) Monthly operating reports ("MORs")

As of the preparation of this tentative ruling, Debtor has not filed MORs for September or October or a declaration addressing whether the UST has excused Debtor from filing MORs. Debtor is cautioned that failure to address this issue prior to the next status conference might be cause for dismissal, conversion of this case to chapter 7, or other relief.

(c) Missing creditors

Debtor appears to have cured (dkt. 24, 25) the issues regarding missing creditors noted in this Court's tentative ruling for 10/6/20 (reproduced below, section (2)(a)).

(2) Deadlines/dates. This case was filed on 9/15/20.

(a) Bar date: 12/7/20 (dkt.23; timely served, dkt.25)

(b) Procedures order: dkt.4 (timely served, dkt.6, supplemented by dkt.21)

(c) Plan/Disclosure Statement*: file by 1/13/21 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).

(d) Continued status conference: 1/26/21 at 1:00 p.m. No written status report required.

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

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

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CONT... **New Hillcrest Inc., a Cayman Island Corporation** **Chapter 11**

by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 10/6/20:

Appearances required by counsel for Debtor and by Debtor's principal.

(1) Current issues

The Debtor's status report (dkt. 14, p.2, para. 2) states that Debtor "owns a single asset- one parcel of real property located at 701 N. Hillcrest Road, Beverly Hills, CA 90210," which Debtor intends to market and sell. Debtor's Bankruptcy Schedule A/B and Statement of Financial Affairs ("SOFA") describe that property as residential property worth \$20,000,000.00 (dkt.19, line 55, at PDF p.7) at which Debtor's sole equity interest holder and her children reside rent-free (although her mailing address is in Indonesia). Dkt.19-1, at PDF p.15, *and* dkt.19-2.

(a) Procedures order and mailing matrix

The Procedures Order (dkt.4) directed Debtor to serve a copy of that order on all parties in interest, but Debtor's proof of service (dkt.6) appears to omit (i) at least one (disputed) creditor - Medallion Capital Financial (Schedule E/F, line 3.2, dkt.19 at PDF p.15); (ii) Debtor's sole equity interest holder/creditor (*id.*, line 3.1); and (iii) Debtor's director, Andre Djaafar (SOFA, line 28, dkt.19-1 at PDF p.13). Debtor's mailing matrix also omits at least those parties.

The tentative ruling is to set a **deadline of 10/8/20** for Debtor to file (x) a proof of service on all parties in interest who were not originally served with the Procedures Order and (b) an amended mailing matrix.

(b) Single Asset Real Estate Case?

Debtor does not disclose if there are fewer than four residential units at the property. Debtor is directed to address at the status conference whether it should have designated itself as a single asset real estate ("SARE") debtor (11 USC 101(51B)) and, if so, whether its proposed date for filing a plan is consistent with 362(d)(3).

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CONT... New Hillcrest Inc., a Cayman Island Corporation

Chapter 11

- (2) Deadlines/dates. This case was filed on 9/15/20.
- (a) Bar date: 12/7/20 (DO NOT SERVE notice yet - court will prepare an order after the status conference).
 - (b) Procedures order: dkt. 4 (timely served, dkt.6, but see item "(1)(a)" above)
 - (c) Plan/Disclosure Statement*: file by 1/13/21 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).
 - (d) Continued status conference: 12/1/20 at 1:00 p.m. No written status report required.
- *Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, all appearances are telephonic via CourtCall at (888) 882-6878.

Party Information

Debtor(s):

New Hillcrest Inc., a Cayman Island

Represented By
Brett Ramsaur

**United States Bankruptcy Court
Central District of California
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Tuesday, January 26, 2021

Hearing Room 1545

1:00 PM

2:20-14175 Tea Station Investment Inc.

Chapter 11

#4.00 Hrg re: Application of debtor and debtor in possession to employ Enestein Pham & Glass as Special Litigation Counsel

Docket 146

Tentative Ruling:

Tentative Ruling for 1/26/21:

Please see the tentative ruling for the Status Conference (Calendar No. 7, 1/26/21 at 1:00 p.m.).

Party Information

Debtor(s):

Tea Station Investment Inc.

Represented By
Leslie A Cohen

Movant(s):

Tea Station Investment Inc.

Represented By
Leslie A Cohen
Leslie A Cohen

Trustee(s):

John-Patrick McGinnis Fritz (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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1:00 PM

2:20-14175 Tea Station Investment Inc.

Chapter 11

#5.00 Cont'd hrg re: Motion for relief from stay [NA]
fr. 9/15/20, 9/29/20, 10/27/20, 12/22/20

BAODI ZHOU
vs
DEBTOR

Docket 50

Tentative Ruling:

Tentative Ruling for 1/26/21:

Please see the tentative ruling for the Status Conference (Calendar No. 7, 1/26/21 at 1:00 p.m.).

Tentative Ruling for 12/22/20:

Please see the tentative ruling for the Status Conference (Calendar No. 10, 12/22/20 at 1:00 p.m.).

Tentative Ruling for 10/27/20:

Please see the tentative ruling for the Status Conference (Calendar No. 30, 10/27/20 at 1:00 p.m.).

Tentative Ruling for 9/29/20:

Please see the tentative ruling for the Status Conference (Calendar No. 21, 9/29/20 at 1:00 p.m.).

Tentative Ruling for 9/15/20:

Please see the tentative ruling for the Status Conference (Calendar No. 4, 9/15/20 at 2:00 p.m.).

Party Information

Debtor(s):

Tea Station Investment Inc.

Represented By
Leslie A Cohen

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CONT... Tea Station Investment Inc.

Chapter 11

Movant(s):

Baodi Zhou

Represented By
David Grimes

Trustee(s):

John-Patrick McGinnis Fritz (TR)

Pro Se

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1:00 PM

2:20-14175 Tea Station Investment Inc.

Chapter 11

#6.00 Cont'd hrg re: Motion to Dismiss Chapter 11 Bankruptcy Case; or in the Alternative, Motion for Relief from the Automatic Stay
fr. 9/15/20, 9/29/20, 10/27/20, 12/22/20

Docket 49

Tentative Ruling:

Tentative Ruling for 1/26/21:

Please see the tentative ruling for the Status Conference (Calendar No. 7, 1/26/21 at 1:00 p.m.).

Tentative Ruling for 12/22/20:

Please see the tentative ruling for the Status Conference (Calendar No. 10, 12/22/20 at 1:00 p.m.).

Tentative Ruling for 10/27/20:

Please see the tentative ruling for the Status Conference (Calendar No. 30, 10/27/20 at 1:00 p.m.).

Tentative Ruling for 9/29/20:

Please see the tentative ruling for the Status Conference (Calendar No. 21, 9/29/20 at 1:00 p.m.).

Tentative Ruling for 9/15/20:

Please see the tentative ruling for the Status Conference (Calendar No. 4, 9/15/20 at 2:00 p.m.).

Party Information

Debtor(s):

Tea Station Investment Inc.

Represented By
Leslie A Cohen

Movant(s):

Baodi Zhou

Represented By

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CONT... Tea Station Investment Inc.

Chapter 11

David Grimes

Trustee(s):

John-Patrick McGinnis Fritz (TR)

Pro Se

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2:20-14175 Tea Station Investment Inc.

Chapter 11

#7.00 Cont'd Status Conference re: Chapter 11 Case
fr. 7/28/20, 9/1/20, 9/15/20, 9/29/20, 12/22/20

Docket 15

Tentative Ruling:

Tentative Ruling for 1/26/21:

Appearances required by Debtor's counsel.

(1) Current issues

(a) Motions of Baodi Zhou ("Zhou") for relief from automatic stay or dismissal of the Investment case (dkt.49, 50, 59); Debtors' opposition (dkt.62), reply (dkt.68)

At the 12/22/20 hearing, this Court continued the hearing to address the possibility of a "comfort order" explaining that the automatic stay is inapplicable as to Debtors' principal. The Court also gave Debtors an opportunity to submit a supplemental opposition. As of the preparation of this tentative ruling, no such supplemental opposition appears on the docket.

The tentative ruling is to grant Movant Zhou's request to clarify that the automatic stay is inapplicable to the non-debtor defendants in the nonbankruptcy action. But the tentative ruling is to deny any other relief from the automatic stay and to deny Zhou's request to dismiss this bankruptcy case, all without prejudice to renewing such requests if Debtors fail to make sufficient progress in this case, or for other cause.

(b) Debtors' Application to Employ Enenstein Pham & Glass as Special Litigation Counsel (dkt. 146); objection by United States Trustee ("UST") (dkt. 148), and withdrawal thereof (dkt.163)

Although the UST's objection has been withdrawn based on Debtors' communications with the UST, those communications are not in the record and the issues raised by the UST are of concern to this Court. Debtor is directed to address those concerns at the hearing. If they are addressed to the satisfaction of this Court, the tentative ruling is to grant the application subject to the standard terms in the posted "Procedures of Judge Bason" (available at www.cacb.uscourts.gov).

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CONT... Tea Station Investment Inc.

Chapter 11

Proposed orders: Debtor is directed to lodge proposed orders on each of the foregoing motions via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(c) Plan (dkt. 137)

Debtors' status report (dkt. 158) alludes to some concerns raised by the Subchapter V Trustee and possible amendments to the proposed Plan. Debtor is directed to address the current status of negotiations. The tentative ruling, if Debtors assert, and this Court is persuaded, that the Plan quickly can be made ready to be mailed to all creditors as part of a voting package, is to set a **deadline of 2/2/21** for Debtor to file a "blacklined" version of the Plan showing any changes, and lodge a proposed order substantially in the form posted on Judge Bason's portion of this Court's website (www.cacb.uscourts.gov), setting a confirmation hearing concurrent with the continued Status Conference set forth below.

(2) Deadlines/dates. This case was filed on 5/4/20 and converted from chapter 7 to chapter 11 on 7/1/20 (dkt.17). The petition was amended to elect Subchapter V on 7/14/20 (dkt.27). On 9/4/20 this Court ordered joint administration with affiliated debtors (dkt.64).

- (a) Bar date: (i) Investment 9/9/20 (dkt. 40; timely served, dkt. 43);
Affiliated Debtors 11/10/20.
- (b) Procedures order: dkt.18 (timely served, dkt.20) (also timely served in each jointly administered case).
- (c) Plan (dkt. 137)*: see above.
- (d) Continued status conference: 3/9/21 at 1:00 p.m. No written status report required.

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

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

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CONT... Tea Station Investment Inc.

Chapter 11

appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Tea Station Investment Inc.

Represented By
Leslie A Cohen

Movant(s):

Tea Station Investment Inc.

Represented By
Leslie A Cohen
Leslie A Cohen

Trustee(s):

John-Patrick McGinnis Fritz (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Tuesday, January 26, 2021

Hearing Room 1545

1:00 PM

2:19-21521 Tatung Company of America, Inc.

Chapter 11

#8.00 Hrg re: Fourth and Final Application Of
Levene, Neale, Bender, Yoo & Brill L.L.P.
For Approval Of Fees And Reimbursement
Of Expenses

Docket 477

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 15.10,
1/26/21 at 1:00 p.m.).

Party Information

Debtor(s):

Tatung Company of America, Inc.

Represented By
Ron Bender
Lindsey L Smith
Juliet Y Oh

Movant(s):

Levene, Neale, Bender, Yoo & Brill

Represented By
Ron Bender

**United States Bankruptcy Court
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Hearing Room 1545

1:00 PM

2:19-21521 Tatung Company of America, Inc.

Chapter 11

#9.00 Hrg re: Fourth And Final Fee Application Of E&W Consulting, LLC
For Approval Of Fees And Reimbursement Of Expenses

Docket 478

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 15.10,
1/26/21 at 1:00 p.m.).

Party Information

Debtor(s):

Tatung Company of America, Inc.

Represented By
Ron Bender
Lindsey L Smith
Juliet Y Oh

Movant(s):

E&W Consulting, LLC

Pro Se

**United States Bankruptcy Court
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Hearing Room 1545

1:00 PM

2:19-21521 Tatung Company of America, Inc.

Chapter 11

#10.00 Hrg re: Second And Final Application Of Law Office Of David Agler As Special Tax Counsel To The Debtor, For Approval Of Fees And Reimbursement Of Expenses

Docket 479

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 15.10, 1/26/21 at 1:00 p.m.).

Party Information

Debtor(s):

Tatung Company of America, Inc.

Represented By
Ron Bender
Lindsey L Smith
Juliet Y Oh

Movant(s):

David Agler

Pro Se

**United States Bankruptcy Court
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1:00 PM

2:19-21521 Tatung Company of America, Inc.

Chapter 11

#11.00 Hrg re: Second And Final Application Of Grobstein Teeple LLP
As Tax Accountant To The Debtor, For Approval Of Fees And
Reimbursement Of Expenses

Docket 480

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 15.10,
1/26/21 at 1:00 p.m.).

Party Information

Debtor(s):

Tatung Company of America, Inc.

Represented By
Ron Bender
Lindsey L Smith
Juliet Y Oh

Movant(s):

Grobstein Teeple LLC

Pro Se

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1:00 PM

2:19-21521 Tatung Company of America, Inc.

Chapter 11

#12.00 Hrg re: Fourth and Final Fee Application Of Six Degrees Law Group,
Special Corporate Counsel To The Debtor And Debtor-In-Possession,
For Payment Of Fees And Reimbursement Of Expenses

Docket 481

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 15.10,
1/26/21 at 1:00 p.m.).

Party Information

Debtor(s):

Tatung Company of America, Inc.

Represented By
Ron Bender
Lindsey L Smith
Juliet Y Oh

Movant(s):

Six Degrees Law Group

Pro Se

**United States Bankruptcy Court
Central District of California
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1:00 PM

2:19-21521 Tatung Company of America, Inc.

Chapter 11

#13.00 Hrg re: Third and Final Application of Sklar Kirsh, LLP
for Approval of Fees and Reimbursement of Expenses

Docket 491

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 15.10,
1/26/21 at 1:00 p.m.).

Party Information

Debtor(s):

Tatung Company of America, Inc.

Represented By
Ron Bender
Lindsey L Smith
Juliet Y Oh

Movant(s):

Official Committee of Unsecured

Represented By
Ian Landsberg
Sklar Kirsh, LLP
Goldsten & McClintock, LLP
Jason J Ben

**United States Bankruptcy Court
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Los Angeles
Judge Neil Bason, Presiding
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1:00 PM

2:19-21521 Tatung Company of America, Inc.

Chapter 11

#14.00 Hrg re: Third Interim and Final Application of Goldstein & McClintock LLP
for Approval of Fees and Reimbursement of Expenses

Docket 492

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 15.10,
1/26/21 at 1:00 p.m.).

Party Information

Debtor(s):

Tatung Company of America, Inc.

Represented By
Ron Bender
Lindsey L Smith
Juliet Y Oh

Movant(s):

Official Committee of Unsecured

Represented By
Ian Landsberg
Sklar Kirsh, LLP
Goldsten & McClintock, LLP
Jason J Ben

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

1:00 PM

2:19-21521 Tatung Company of America, Inc.

Chapter 11

#15.00 Hrg re: Second Interim and Final Application for RSR Consulting LLC
for Approval of Fees and Reimbursement of Expenses

Docket 505

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 15.10,
1/26/21 at 1:00 p.m.).

Party Information

Debtor(s):

Tatung Company of America, Inc.

Represented By
Ron Bender
Lindsey L Smith
Juliet Y Oh

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

1:00 PM

2:19-21521 Tatung Company of America, Inc.

Chapter 11

#15.10 Status Conference re: Post confirmation
fr. 10/2/19, 10/15/19, 10/29/19, 11/5/19, 12/10/19,
12/17/19, 01/07/20, 1/14/20, 02/18/20, 4/21/20,
6/2/20, 6/16/20, 7/7/20, 8/18/20, 9/1/20, 9/29/20,
10/6/20, 10/27/20, 12/1/20, 12/8/20

Docket 1

Tentative Ruling:

Tentative Ruling for 1/26/21:

Grant the fee applications and continue the post-confirmation status conference as set forth below. Appearances are not required on 1/26/21.

(1) Current issues

(a) Levene, Neale, Bender, Yoo & Brill L.L.P. fourth and final fee application (dkt. 477, 482, "Application"), declaration of Jason Chen (dkt. 483), no opposition is on file

The tentative ruling is to grant the Application approving fees of \$42,901.50 and \$823.50 in expenses for a total award of \$43,725.00.

(b) E&W Consulting, LLC fourth and final fee application (dkt. 478, 482, "Application"), declaration of Christina Sun (dkt. 497), no opposition is on file

The tentative ruling is to grant the Application approving fees of \$82,610.00 and \$0 in expenses for a total award of \$82,610.00.

(c) Law Offices of David Agler second and final fee application (dkt. 479, 482, "Application"), declaration of Jason Chen (dkt. 483), no opposition is on file

The tentative ruling is to grant the Application approving fees of \$11,340.00 and \$0 in expenses for a total award of \$11,340.00.

(d) Grobstein Teeple LLP second and final fee application (dkt. 480, 482, "Application"), declaration of Jason Chen (dkt. 483), no opposition is on file

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CONT...

Tatung Company of America, Inc.

Chapter 11

The tentative ruling is to grant the Application approving fees of \$5,433.00 and \$0 in expenses for a total award of \$5,433.00.

(e) Six Degrees Law Group fourth and final fee application (dkt. 480, 482, "Application"), declaration of Jason Chen (dkt. 483), no opposition is on file

The tentative ruling is to grant the Application approving fees of \$16,277.50 and \$551.84 in expenses for a total award of \$16,829.34.

(f) Sklar Kirsh, LLP ("Applicant") third and final fee application (dkt. 491, "Application"), no opposition is on file

The tentative ruling is to conditionally grant the Application approving fees of \$9,390.00 and \$0 in expenses for a total award of \$9,390.00.

The tentative ruling is also that this order is conditioned on Applicant's timely filing of a declaration which complies with the requirements of LBR 2016-1(a)(1)(J) no later than **February 2, 2021**.

(g) Goldstein & McClintock LLP third and final fee application (dkt. 492, "Application"), no opposition is on file

The tentative ruling is to conditionally grant the Application approving fees of \$8,895.50 and \$45.00 in expenses for a total award of \$8,940.50.

The tentative ruling is also that this order is conditioned on Applicant's timely filing of a declaration which complies with the requirements of LBR 2016-1(a)(1)(J) no later than **February 2, 2021**.

(h) RSR Consulting, LLC second and final fee application (dkt. 505, "Application"), no opposition is on file

The tentative ruling is to conditionally grant the Application approving fees of \$4,230.00 and \$29.30 in expenses for a total award of \$4,259.30.

The tentative ruling is also that this order is conditioned on Applicant's timely filing of a declaration which complies with the requirements of LBR 2016-1(a)(1)(J) no later than **February 2, 2021**.

Proposed orders: Applicants are directed to lodge proposed orders on each of the foregoing applications via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

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CONT... **Tatung Company of America, Inc.**

Chapter 11

(2) Deadlines/dates. This case was filed on 9/30/19.

(a) Bar date: 1/17/20 dkt. 97 (timely served, dkt. 101).

(b) Procedures order: dkt.18 (timely served, dkt.25)

(c) Plan/Disclosure Statement (dkt. 405, 406): plan confirmed (dkt.467).

(d) Post-Confirmation status conference: 3/9/21 at 1:00 p.m., *brief* written status report due 2/23/21.

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

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Tatung Company of America, Inc.

Represented By

Ron Bender

Lindsey L Smith

Juliet Y Oh

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2:19-24048 110 West Properties, LLC

Chapter 11

#16.00 Hrg re: Motion for Entry of an Order Authorizing the Debtor to Retain and Compensate Professionals Utilized by the Debtor in Ordinary Course of Business

Docket 186

***** VACATED *** REASON: Continued to 2/9/21 at 1:00 p.m. pursuant to the parties' stipulation (dkt. 199) and order thereon**

Tentative Ruling:

Party Information

Debtor(s):

110 West Properties, LLC

Represented By
Gregory K Jones
Jeffrey Huron
Danielle N Rushing

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2:19-24048 110 West Properties, LLC

Chapter 11

#17.00 Hrg re: Motion for entry of an order authorizing the debtor to retain and compensate professionals utilized by the debtor in the ordinary course of business

Docket 185

*** VACATED *** REASON: Amended by Docket No. 186.

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

110 West Properties, LLC

Represented By
Gregory K Jones
Jeffrey Huron
Danielle N Rushing

Movant(s):

110 West Properties, LLC

Represented By
Gregory K Jones
Jeffrey Huron
Danielle N Rushing

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2:19-24048 110 West Properties, LLC

Chapter 11

#18.00 Hrg re: Application to Employ and Compensate BBG, Inc. as Appraiser

Docket 187

***** VACATED *** REASON: Continued to 2/9/21 at 1:00 p.m. pursuant to
the parties' stipulation (dkt. 199) and order thereon**

Tentative Ruling:

Party Information

Debtor(s):

110 West Properties, LLC

Represented By
Gregory K Jones
Jeffrey Huron
Danielle N Rushing

Movant(s):

110 West Properties, LLC

Represented By
Gregory K Jones
Jeffrey Huron
Danielle N Rushing

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2:19-24048 110 West Properties, LLC

Chapter 11

#19.00 Cont'd hrg re: Motion to Dismiss Chapter 11 Case
fr. 10/27/20, 12/8/20

Docket 145

*** VACATED *** REASON: Continued to 2/9/21 at 1:00 p.m. pursuant to
the parties' stipulation (dkt. 199) and order thereon

Tentative Ruling:

Party Information

Debtor(s):

110 West Properties, LLC

Represented By
Gregory K Jones
Jeffrey Huron
Danielle N Rushing

Movant(s):

Dos Cabezas Properties, LLC

Represented By
Robert P Goe

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2:19-24048 110 West Properties, LLC

Chapter 11

#20.00 Cont'd Status Conference re: Chapter 11 Case
fr. 12/17/19, 1/28/20, 02/18/20, 3/31/20, 4/21/20,
5/12/20, 6/2/20, 6/30/20, 8/18/20, 9/15/20, 10/27/20,
12/8/20

Docket 5

***** VACATED *** REASON: Continued to 2/9/21 at 1:00 p.m. pursuant to
the parties' stipulation (dkt. 199) and order thereon**

Tentative Ruling:

Party Information

Debtor(s):

110 West Properties, LLC

Represented By
Gregory K Jones
Jeffrey Huron
Danielle N Rushing

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2:19-24048 110 West Properties, LLC

Chapter 11

Adv#: 2:20-01012 Tarzana Crossing, a Merchant Faire, LLC v. 110 West Properties, LLC et al

#21.00 Cont'd hrg re: Motion of Creditors/Defendants Dos Cabezas Properties, LLC, Criscione-Meyer Entitlement, a Limited Liability Company Cell of Almond Tree Capital Management Co., LLC, Michael Criscione to Remand Tarzana Crossing, A Merchant Faire, LLC's Complaint and Request for Attorney's Fees in the Amount of \$2,800.00
fr. 03/31/20, 5/12/20, 6/30/20, 8/18/20, 10/27/20, 12/8/20

Docket 7

***** VACATED *** REASON: Continued to 2/9/21 at 1:00 p.m. pursuant to the parties' stipulation (adv. dkt. 28) and order thereon**

Tentative Ruling:

Party Information

Debtor(s):

110 West Properties, LLC

Represented By
Gregory K Jones
Jeffrey Huron
Danielle N Rushing

Defendant(s):

110 West Properties, LLC

Represented By
Gregory K Jones

RU, LLC

Pro Se

Dos Cabezas Properties, LLC

Represented By
Thomas F Nowland
Robert P Goe
Charity J Manee

Criscione-Meyer Entitlement, LLC

Represented By
Thomas F Nowland

Michael Criscione

Represented By
Thomas F Nowland

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CONT... 110 West Properties, LLC

Chapter 11

First American Title Company

Pro Se

Movant(s):

Dos Cabezas Properties, LLC

Represented By
Thomas F Nowland
Robert P Goe
Charity J Manee

Criscione-Meyer Entitlement, LLC

Represented By
Thomas F Nowland

Michael Criscione

Represented By
Thomas F Nowland

Plaintiff(s):

Tarzana Crossing, a Merchant Faire,

Represented By
Alan M Feld
James R Felton

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2:19-24048 110 West Properties, LLC

Chapter 11

Adv#: 2:20-01012 Tarzana Crossing, a Merchant Faire, LLC v. 110 West Properties, LLC et al

#22.00 Cont'd Status Conference re: Notice of Removal
fr. 03/31/20, 5/12/20, 6/30/20, 8/18/20, 10/27/20
12/8/20

Docket 1

*** VACATED *** REASON: Continued to 2/9/21 at 1:00 p.m. pursuant to
the parties' stipulation (adv. dkt. 28) and order thereon

Tentative Ruling:

Party Information

Debtor(s):

110 West Properties, LLC

Represented By
Gregory K Jones
Jeffrey Huron
Danielle N Rushing

Defendant(s):

110 West Properties, LLC

Represented By
Gregory K Jones

RU, LLC

Pro Se

Dos Cabezas Properties, LLC

Represented By
Thomas F Nowland
Robert P Goe
Charity J Manee

Criscione-Meyer Entitlement, LLC

Represented By
Thomas F Nowland

Michael Criscione

Represented By
Thomas F Nowland

First American Title Company

Pro Se

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CONT... 110 West Properties, LLC

Chapter 11

Plaintiff(s):

Tarzana Crossing, a Merchant Faire,

Represented By
Alan M Feld
James R Felton

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Hearing Room 1545

1:00 PM

2:19-11809 Schaefer Ambulance Service, Inc

Chapter 11

Adv#: 2:20-01149 The SAS Creditor Trust v. L.A. Paint and Body Works, Inc. a California

#23.00 Cont'd Status Conference re: Complaint for 1) Violation of the Automatic Stay [11 U.S.C. Section 362(a)]; 2) Violation of Pan Injunctions; and 3) Turnover of Property of the Estate [11 U.S.C. Section 542] fr. 9/15/20, 11/10/20, 12/22/20

Docket 1

Tentative Ruling:

Tentative Ruling for 1/26/21:

Appearances are not required on 1/26/21.

(1) Status Conference

Although the tentative ruling is to grant the motion for a default judgment, this Court anticipates post-judgment proceedings, such as supplemental declaration(s) to request more damages (see below). Therefore it appears appropriate to set a continued status conference so that the parties and this Court can address any scheduling issues, discretionary procedures, and similar matters orally, without the expense and delay of formal written motions (unless the issues warrant such briefing).

The tentative ruling is to continue this adversary proceeding status conference to **3/9/21 at 1:00 p.m.**, provided that if any party self-calendars any matter for a different date then the practice of this Court is to hold an additional status conference on that date as well (without further notice).

The tentative ruling is that no written status report is required for the continued status conference.

(2) Plaintiff's Motion for Default Judgment (dkt. 18), Plaintiff's Request for Judicial Notice (dkt. 19) and the Supplemental Declaration of Monsi Morales in Support of Motion for Default Judgment (dkt. 23).

The tentative ruling is to grant the motion for the reasons set forth below.

(a) Entry of Default against Defendant L.A. Paint and Body Works, Inc.

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CONT... **Schaefer Ambulance Service, Inc**

Chapter 11

On 08/07/20, plaintiff The SAS Creditor Trust ("SAS") filed a motion requesting entry of default (dkt. 6), citing defendant L.A. Paint and Body Works, Inc.'s ("LA Paint") failure to appear in the instant adversary proceeding. On 08/10/20, the clerk of court entered LA Paint's default (dkt. 8).

(2) SAS' Motion for Default Judgment

Pursuant to Federal Rule of Civil Procedure 8(b)(6) (incorporated by Rule 7008, Fed. R. Bankr. P.), failure to deny an allegation acts as an admission of that allegation. But allegations pertaining to the amount of damages must be independently proven. Fed. R. Civ. P. 8(b)(6). Accordingly, the tentative ruling with respect to SAS's claims for relief is as follows.

(i) LA Paint Did *Not* Violate 11 U.S.C. 362(a)(3)

The tentative ruling is that LA Paint did not violate the automatic stay under 11 U.S.C. § 362(a)(3). Subsequent to the filing of SAS' motion, the Supreme Court issued a decision clarifying what it means to exercise control over property of the estate. *City of Chicago v. Fulton*, __ U.S. __, 2021 U.S. Lexis 496 (Jan. 14, 2021). In *Fulton*, the Court held that "mere retention of estate property after the filing of a bankruptcy petition does not violate § 362(a)(3) of the Bankruptcy Code." *Id.* at *12 (Jan. 14, 2021). Thus, under *Fulton*, LA Paint's failure to turn over property of the estate cannot be considered an act to exercise control over estate property.

(ii) LA Paint Violated 11 U.S.C. 362(a)(6) by Acting to Collect or Recover a Prepetition Claim Against the Debtor

The tentative ruling is that LA Paint violated the automatic stay under 11 U.S.C. § 362(a)(6). The Court of Appeals for the Ninth Circuit has held that refusal to turn over property of the estate in an effort to collect on a prepetition debt without seeking relief from the automatic stay violates the provisions of the automatic stay under 11 U.S.C. § 362(a)(6). *In re Farmers Markets, Inc.*, 792 F.2d 1400, 1404 (9th Cir. 1986). Here, LA Paint was (x) informed of SAS's bankruptcy and the request to turn over the subject property, (y) conditioned the return of the subject property on the payment of the invoices incurred prepetition, and (z) did so without seeking relief from the automatic stay. See dkt. 18, PDF pp. 35–50.

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(iii) LA Paint Violated the Plan Injunctions

The tentative ruling is that, for the reasons set forth in the moving papers (similar to those cited immediately above), LA Paint's act of conditioning the turn over of the subject property on the payment of prepetition debts also violated the injunctions set forth in the Debtor's confirmed chapter 11 plan. Those injunctions (the "Plan Injunctions") were adopted by this Court in issuing its order confirming the Plan.

(iv) SAS is Entitled to Turnover of the Subject Property Pursuant to 11 U.S.C. 542(a)

Under 11 U.S.C. 542(a), an entity in possession of estate property must turn over to the debtor in possession any property of the estate that the debtor in possession may use, sell, or lease, *see United States v. Whiting Pools*, 462 U.S. 198, 202 (1983), unless that property is "of inconsequential value or benefit to the estate." 11 U.S.C. § 542(a). The tentative ruling is that SAS is entitled to turnover of the subject property because SAS, as successor in interest to the debtor in possession, can use, sell, or lease the subject property. The tentative ruling is also that LA Paint is directed to surrender the subject property or its value of \$30,500 to SAS. See *dkf.18*, p.31:26-32:8.

(v) LA Paint did not establish any exception to its obligations under the automatic stay (11 U.S.C. 362(a)), the Plan Injunctions, or the turnover provisions of the Bankruptcy Code (11 U.S.C. 542)

This Court recognizes that in some instances a creditor can retain possession of a vehicle as a way of perfecting its lien arising from work performed on the vehicle, and that might be an exception to the automatic stay. Likewise such a creditor might be excused from its turnover obligations and might be permitted to retain the vehicle (at least temporarily) as a form of adequate protection of its interest in the vehicle. See *generally* 11 U.S.C. 362(b)(3)&(24), 363(e), 546(b), 547(e)(2)(A). But LA Paint has not presented any argument or evidence to establish that it falls within any exception to the automatic stay, the Plan Injunctions, or its turnover obligations.

(vi) Contempt

The tentative ruling is that SAS has presented clear and convincing evidence that LA Paint has violated clear and definite orders of this Court, or statutory provisions that deemed to be automatic orders of this Court -

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namely, the automatic stay (11 U.S.C. 362(a)) and the Plan Injunctions. (LA Paint also violated the turnover obligations of 11 U.S.C. 542, and that might constitute violation of a third alternative deemed order and an additional ground for contempt, but the motion does not seek contempt on that third alternative ground.)

The tentative ruling is that there was nothing ambiguous or unclear about LA Paint's obligations. LA Paint was notified of SAS' bankruptcy case and had received multiple requests to turn over the subject property for purposes of administering the bankruptcy estate. In response, LA Paint sought to collect on a prepetition debt by conditioning the delivery of the subject property on payment of prepetition invoices. Dkt. 18, at PDF pp. 27, 33, 35–36, 42.

The tentative ruling is that LA Paint is in contempt of court, under the applicable standards, and that SAS is entitled to compensatory and, if necessary, coercive relief. *See generally In re Taggart v. Lorenzen*, 139 S.Ct. 1795 (2019), *on remand, In re Taggart*, 980 F.3d 1340 (9th Cir. 2020). The tentative ruling is that Movant is also entitled to injunctive relief to enforce LA Paint's turnover obligations under 11 U.S.C. 542.

(vii) Relief: turnover; injunctive relief; writ of possession and assistance; damages including reasonable attorneys fees and costs, etc

The tentative ruling is that Movant has established grounds for a judgment and order directing LA Paint immediately to surrender and turn over the subject property, or its value of no less than \$30,500, to SAS. In addition, the tentative ruling is that in the event LA Paint fails to turn over the subject property immediately then the judgment shall constitute a writ of possession and a writ of assistance (with the requisite language from LBR 7064-1) authorizing SAS to request the assistance of the U.S. Marshal Service to execute the Writ or Judgment by (a) repossessing the subject property from LA Paint and/or its property, (b) using all necessary force to effectuate the turnover and repossession, and (c) surrendering possession of the subject property to SAS's designated custodian. At this time, no coercive sanctions are expressly requested, but the tentative ruling is to reserve jurisdiction to impose coercive sanctions and other relief in appropriate circumstances.

In addition, the tentative ruling is that SAS is entitled to damages, including reasonable attorney fees and costs; that the requested \$17,865.50 in attorney fees incurred to date is reasonable (dkt. 23); and that SAS may file

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supplemental declaration(s) attesting to any additional damages - including without limitation any additional attorney fees, any damage to the subject property in the event it is not in the same condition as it was when brought to LA Paint, and any reasonable costs and expenses of the US Marshal or other service used in aid of turnover. In addition, the tentative ruling is that SAS is entitled to interest at the federal judgment rate (28 U.S.C. 1961) from the date that each of the sums referenced above becomes due and owing through the date when such sums are collected.

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

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 12/22/20:

Continue to 1/26/21 at 11:00 a.m. pursuant to Plaintiff's status report (adv.dkt.16). Appearances are not required on 12/22/20.

The tentative ruling is also to set Plaintiff's Motion for Default Judgment (adv. dkt. 18) for hearing to be held contemporaneous with the continued status conference, with a **deadline of 1/12/21** for Plaintiff to file a declaration with daily timesheets to support the requested attorney fees of \$17,865.50. See dkt.18, p.17:2-4 & p.17:20-23 (stating that Morales Decl. demonstrates

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Chapter 11

incurrence of attorney fees), *and compare id.* pp.19-22 (Morales Decl. w/ no timesheets). The tentative ruling is that the declaration of Mr. McNeal provides sufficient foundation to support his opinion: "I believe the market value of the Subject Property, as is, is no less than \$30,500.00." Dkt.18, p.31:26-32:8.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Schaefer Ambulance Service, Inc

Represented By
Craig G Margulies
Monserrat Morales

Defendant(s):

L.A. Paint and Body Works, Inc. a

Pro Se

Plaintiff(s):

The SAS Creditor Trust

Represented By
Monserrat Morales

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2:19-11809 Schaefer Ambulance Service, Inc

Chapter 11

Adv#: 2:20-01149 The SAS Creditor Trust v. L.A. Paint and Body Works, Inc. a California

#23.10 Hrg re: Motion for Default Judgment

Docket 18

Tentative Ruling:

Tentative Ruling for 1/26/21:

Please see the tentative ruling for the status conference (Calendar No. 23, 1/26/21 at 1:00 p.m.).

Party Information

Debtor(s):

Schaefer Ambulance Service, Inc

Represented By
Craig G Margulies
Montserrat Morales

Defendant(s):

L.A. Paint and Body Works, Inc. a

Pro Se

Plaintiff(s):

The SAS Creditor Trust

Represented By
Montserrat Morales

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2:20-19443 Joshuaville, LLC

Chapter 11

#24.00 Cont'd status conference re: Chapter 11 case
fr. 11/10/20, 12/22/20

Docket 1

Tentative Ruling:

Tentative Ruling for 1/26/21:

Continue as set forth below. Appearances are not required on 1/26/21.

(1) Current issues

This Court has no issues to raise sua sponte at this time.

(2) Deadlines/dates. This case was filed, as a Subchapter V case, on 10/19/20.

(a) Bar date: 12/28/20 per General Order 20-01 (70 days after petition date in Subchapter V cases) (DO NOT SERVE any notice: one has already been sent, see dkt.9).

(b) Procedures order: dkt.4 (timely served, dkt.6).

(c) Plan/Disclosure Statement: See the **revised** "Procedures of Judge Bason" (available at www.cacb.uscourts.gov) (search for "Chapter 11: Plan").

Note: Debtor has filed a written motion (dkt. 37) to extend the deadline to file a plan, which is set by statute in this subchapter V case, from 1/19/21 to 3/22/21. The actual deadline will depend on whether that motion is granted.

(d) Continued status conference: 3/23/21 at 1:00 p.m. No written status report is required.

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

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

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by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 12/22/20:

Continue as set forth below. Appearances are not required on 12/22/20.

(1) Current issues

The issues raised in the tentative ruling for 11/10/20 (reproduced below) have been adequately addressed. This Court is not aware of any remaining issues that would warrant a status conference at this time.

(2) Deadlines/dates. This case was filed, as a Subchapter V case, on 10/19/20.

(a) Bar date: 12/28/20 per General Order 20-01 (70 days after petition date in Subchapter V cases) (DO NOT SERVE any notice: one has already been sent, see dkt.9).

(b) Procedures order: dkt.4 (timely served, dkt.6).

(c) Plan/Disclosure Statement*: File by 1/19/21 using the forms required by Judge Bason or, alternatively, Debtor's own forms (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).

Note: Although Subchapter V contemplates only a Plan, not a Disclosure Statement, the required form Plan has not yet been updated to include the disclosures required by Subchapter V (11 U.S.C. 1190), so if the form Plan is used then Judge Bason requires that the form Disclosure Statement be completed as well. 11 U.S.C. 1181(b).

(d) Continued status conference: 1/26/21 at 1:00 p.m. No written status report is required.

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

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CONT... Joshuaville, LLC

Chapter 11

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 11/10/20:

Appearances required by counsel for the debtor and by Debtor's principal, Wayne Tsang.

(1) Current issues

This Court has reviewed Debtor's status reports (dkt.12, 13) and the other filed documents and records in this case.

(a) Executory contract(s)?

Debtor reports (dkt.12, p.2) that its "sole asset in an income producing contractual interest" and this bankruptcy case was precipitated by arbitration of a contract dispute and "lack of information/income from main asset." This implies that Debtor is a party to a contract that might be executory (although that is not necessarily so). Debtor also reports (dkt.12, p.7) that it has no executory contracts: is that accurate?

(b) Employment application (dkt.16)

In connection with the pending employment application of proposed bankruptcy counsel (dkt.16), Debtor's principal, Mr. Tsang, declares that Alkterra Capital "paid the pre-petition retainer of \$76,717.00" to proposed bankruptcy counsel "as a gift" for which it will not seek reimbursement, and that "[o]ther than shared leadership/ownership, Alkterra Capital has no connections to, or claims against, the Debtor." Dkt.16, p.11:10-13 There is no disclosure about the business form of Alkterra Capital.

Supposing that Alkterra Capital is a corporation or similar type of business subject to the laws of California or similar laws, this Court is

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CONT... Joshuaville, LLC

Chapter 11

concerned that investors in Alkterra Capital could in future seek to avoid its gift as a constructively fraudulent transfer, or bring similar claims. That possibility could be used as leverage to influence Mr. Tsang's management of this bankruptcy estate, or otherwise cause potential conflicts of interest.

Have any investors in Alkterra Capital been fully informed as to its gift to Debtor, and have they provided their written consent, and/or whatever else might be required (e.g., a vote)? Does the gift implicate bankruptcy-related concerns in any other ways?

Because it might take time to obtain any responses/authorizations, the tentative ruling is to set the employment application for hearing fairly far in the future, concurrent with the continued status conference (see below). The tentative ruling is not to alter the current deadline for any response to the employment application (14 days after it was filed/served), but to set a supplemental **deadline of 12/8/20** for Debtor to file a declaration or other papers addressing this Court's concerns set forth above, and a **deadline of 12/15/20** for the United States Trustee to file any response it may elect to file on that issue.

(2) Deadlines/dates. This case was filed, as a Subchapter V case, on 10/19/20.

- (a) Bar date: 12/28/20 per General Order 20-01 (70 days after petition date in Subchapter V cases) (DO NOT SERVE any notice: one has already been sent, see dkt.9)
- (b) Procedures order: dkt.4 (timely served, dkt.6).
- (c) Plan/Disclosure Statement*: TBD

Note: Although Subchapter V contemplates only a Plan, not a Disclosure Statement, the required form Plan has not yet been updated to include the disclosures required by Subchapter V (11 U.S.C. 1190), so Judge Bason requires that the form Disclosure Statement be completed as well. 11 U.S.C. 1181(b). Alternatively, as stated in the Procedures Order, Debtor can request to be excused from using the forms.

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

- (d) Continued status conference: 12/22/20 at 1:00 p.m. No written status report required.

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If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, all appearances are telephonic via CourtCall at (888) 882-6878.

Party Information

Debtor(s):

Joshuaville, LLC

Represented By
Leslie A Cohen

Trustee(s):

Moriah Douglas Flahaut (TR)

Pro Se

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Hearing Room 1545

1:00 PM

2:20-20260 33 Quincy Avenue LLC

Chapter 11

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

ACCESS INVESTMENT, LLC
vs
DEBTOR

Docket 40

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 26, 1/26/21 at 1:00 p.m.).

Party Information

Debtor(s):

33 Quincy Avenue LLC

Represented By
Michael Jay Berger

Movant(s):

Access Investment, LLC

Represented By
Glenn C. Kelble

Trustee(s):

Susan K Seflin (TR)

Pro Se

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1:00 PM

2:20-20260 33 Quincy Avenue LLC

Chapter 11

#26.00 Cont'd status conference re: Chapter 11 case
fr. 12/1/20, 1/5/21

Docket 1

Tentative Ruling:

Tentative Ruling for 1/26/21:

Appearances required.

(1) Current issues

(a) Motion of Access Investment, LLC ("Access") for relief from the automatic stay (dkt. 40), Debtor's response (dkt. 48), no reply is on file

The tentative ruling is to issue an adequate protection order ("APO"), pursuant to 11 U.S.C. 362(d)(1) and (d)(2), requiring Debtor to close the contemplated sale of the property - or, if that sale falls through, an equivalent sale to a backup buyer - no later than 3/31/21, and meanwhile abide by the commitments in Debtor's response (dkt.48) including making monthly adequate protection payments to Access, failing which Access would be entitled to file a declaration of default under the APO and lodge a proposed order terminating the automatic stay. Reasons: Although Access has established grounds for relief from the automatic stay, the statute provides flexibility as to the form of any such relief, and the foregoing tentative ruling is intended to provide Access with adequate protection against any diminution of its interest while also maximizing the sale price of the subject property for the benefit of junior lienholder(s) and, if such junior lienholder(s) can assert any deficiency claims, for the benefit of all creditors by reducing any such deficiency.

(2) Deadlines/dates. This case was filed on 11/16/20.

(a) Bar date: 1/25/21 per General Order 20-01 (70 days after petition date in Subchapter V cases) (DO NOT SERVE any notice: one has already been sent, see dkt.10).

(b) Procedures order: dkt. 6 (timely served, dkt. 12)

(c) Plan/Disclosure Statement: TBD. See the **revised** "Procedures of Judge Bason" (available at www.cacb.uscourts.gov) (search for

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CONT...

33 Quincy Avenue LLC

Chapter 11

"Chapter 11: Plan").

- (d) Continued status conference: 3/9/21 at 1:00 p.m., to be concurrent with the continued status conference in the related case of Debtor's 50% owner, Residence Group, Inc. (Case No. 2:20-bk-20261-NB). No written status report required.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

33 Quincy Avenue LLC

Represented By
Michael Jay Berger

Trustee(s):

Susan K Seflin (TR)

Pro Se

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1:00 PM

2:20-20261 Residence Group, Inc.

Chapter 11

#27.00 Cont'd Status Conference re: Chapter 11 Case
fr. 12/22/20

Docket 22

Tentative Ruling:

Tentative Ruling for 1/26/21:

Continue as set forth below. Appearances are not required on 1/26/21

(1) Current issues

This Court has no issues to raise *sua sponte*.

(2) Deadlines/dates. This case was filed on 11/16/20.

(a) Bar date: 1/25/21 per General Order 20-01 (70 days after petition date in Subchapter V cases) (DO NOT SERVE any notice: one has already been sent, see dkt.12).

(b) Procedures order: dkt.24 (timely served, dkt. 35)

(c) Plan/Disclosure Statement*: file by 2/15/21. See the **revised** "Procedures of Judge Bason" (available at www.cacb.uscourts.gov) (search for "Chapter 11: Plan").

(d) Continued status conference: 3/9/21 at 1:00 p.m., to be concurrent with the continued status conference in the related case in which Debtor is a 50% member, 33 Quincy Avenue, LLC (Case No. 2:20-bk-20260-NB). No written status report required.

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

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov

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CONT... Residence Group, Inc. Chapter 11

instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Residence Group, Inc.

Represented By
Michael Jay Berger

Trustee(s):

Moriah Douglas Flahaut (TR)

Pro Se

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1:00 PM

2:20-18895 Bethany Senior Housing II, LP

Chapter 11

#28.00 Cont'd Status Conference re: Chapter 11 Case
fr. 10/27/20, 12/1/20

Docket 1

Tentative Ruling:

Tentative Ruling for 1/26/21:

Continue as set forth below. Appearances are not required on 1/26/21.

(1) Current issues

This Court has no issues to raise *sua sponte* at this time.

(2) Deadlines/dates. This case was filed on 9/30/20.

(a) Bar date: 12/15/20 (dkt. 15; timely served, dkt. 17).

(b) Procedures order: dkt. 2 (notice at dkt. 16)

(c) Plan/Disclosure Statement*: TBD. See the **revised** "Procedures of Judge Bason" (available at www.cacb.uscourts.gov) (search for "Chapter 11: Plan").

(d) Continued status conference: 2/9/21 at 2:00 p.m. No written status report is required.

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

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

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CONT... Bethany Senior Housing II, LP

Chapter 11

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Bethany Senior Housing II, LP

Represented By
Simon J Dunstan

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Hearing Room 1545

1:00 PM

2:19-20273 Alex Christopher Padilla

Chapter 11

#29.00 Cont'd Status Conference re: Post Confirmation
fr. 9/17/19, 10/1/19, 10/29/19, 12/10/19, 12/17/19,
1/28/20, 02/18/20, 3/3/20, 4/7/20, 5/5/20, 5/19/20,
6/30/20, 7/28/20, 9/1/20, 11/3/20, 11/10/20, 12/22/20

Docket 1

Tentative Ruling:

Tentative Ruling for 1/26/21:

Continue as set forth below. Appearances are not required on 1/26/21.

(1) Current issues

(a) Post-confirmation progress

This Court continued the 12/22/20 hearing to allow the broker for the Honolulu Terrace property an opportunity to lower the listing price to generate interest in the property. Dkt. 203, p. 3. The tentative ruling is to continue the status conference to 3/26/21 at 1:00 p.m. pursuant to the debtor's status report. Dkt. 208.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

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CONT... Alex Christopher Padilla

Chapter 11

Debtor(s):

Alex Christopher Padilla

Represented By
Eric Bensamochan

Trustee(s):

Gregory Kent Jones (TR)

Pro Se

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Hearing Room 1545

1:00 PM

2:18-22426 Edmond Melamed and Rozita Melamed

Chapter 11

#30.00 Status Conference re: Post Confirmation
fr. 11/27/18, 2/5/19, 2/26/19, 3/26/19, 4/9/19,
04/30/19, 06/04/19; 08/06/19, 9/24/19, 10/29/19,
11/12/19, 12/10/19, 1/28/20, 3/3/20, 5/5/20, 5/12/20,
7/14/20, 10/27/20

Docket 7

Tentative Ruling:

Tentative Ruling for 1/26/21:

Appearances are not required.

Continue to 3/23/21 at 1:00 p.m., *brief* status report due 3/9/21, all subject to being mooted if an order closing the case on an interim basis is issued before that time. Appearances are not required on 1/26/21.

(1) Current issues

This Court has no issues to raise *sua sponte*.

(2) Deadlines/dates

This case was filed on 10/22/18, and Debtors' plan was confirmed on 7/20/20 (dkt. 173).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

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CONT... Edmond Melamed and Rozita Melamed

Chapter 11

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Edmond Melamed

Represented By
Michael Jay Berger

Joint Debtor(s):

Rozita Melamed

Represented By
Michael Jay Berger

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1:00 PM

2:20-15954 John Martin Kennedy

Chapter 11

#31.00 Cont'd hrg re: Motion in Individual Ch 11 Case for Order Approving a Budget for the Use of Debtor's Cash and Post-Petition Income fr. 8/18/20, 9/15/20, 9/29/20, 10/27/20, 11/10/20, 12/1/20

Docket 51

Tentative Ruling:

Tentative Ruling for 1/26/21:

Please see the tentative ruling for the status conference (Calendar No. 33, 1/26/21 at 1:00 p.m.).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

John Martin Kennedy

Represented By
Sandford L. Frey
Dennette A Mulvaney

Movant(s):

John Martin Kennedy

Represented By
Sandford L. Frey
Dennette A Mulvaney

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1:00 PM

2:20-15954 John Martin Kennedy

Chapter 11

#32.00 Cont'd hrg re: Insider Compensation
fr. 9/15/20, 9/29/20, 10/27/20, 11/10/20,
12/1/20

Docket 60

Tentative Ruling:

Tentative Ruling for 1/26/21:

Please see the tentative ruling for the status conference (Calendar No. 33,
1/26/21 at 1:00 p.m.).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

John Martin Kennedy

Represented By
Sandford L. Frey
Dennette A Mulvaney

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2:20-15954 John Martin Kennedy

Chapter 11

#33.00 Cont'd Status Conference re: Chapter 11 Case
fr. 7/14/20, 7/28/20, 8/18/20, 9/15/20, 9/29/20,
10/27/20, 11/10/20, 12/1/20, 12/8/20, 12/22/20

Docket 1

Tentative Ruling:

Tentative Ruling for 1/26/21:

Appearances required.

(1) Current issues

(a) Debtor's motion for an order authorizing him to deviate from mandatory form plan/disclosure statement (dkt. 231), no opposition is on file

The tentative ruling is to grant the motion, which accords with Judge Bason's revised procedures. See the **revised** "Procedures of Judge Bason" (available at www.cacb.uscourts.gov) (search for "Chapter 11: Plan").

(b) Campos v. Kennedy (Adv. No. 2:20-ap-01626-NB)

This Court has reviewed the parties joint status report (adv. dkt. 8) and the other filed documents in the adversary proceeding and the bankruptcy case. The tentative ruling is that, purely as a scheduling matter - and without making any binding determinations on the merits of the adversary proceeding - it is appropriate to **stay the adversary proceeding** and move forward with Debtor's attempts to confirm his proposed Plan, including his contemplated motion to disallow Ms. Campos' claimed security interest or ownership interest in Debtor's receivables, because Debtor asserts that his motion and/or confirmation of the Plan would moot the adversary proceeding. If this Court ultimately were to rule against Debtor on these issues, all rights would be preserved to litigate the (not-mooted) adversary proceeding.

This Court's understanding of Debtor's theory is as follows, based largely on the parties' prior oral arguments and the proposed Disclosure Statement, Exhibit "L" (dkt.230 at PDF pp.52-54). If the Mediation Term Sheet is an assumed, binding agreement between Debtor and Ms. Campos then, under Debtor's theory, it would be inconsistent with that agreement to treat Debtor's obligations to Ms. Campos as a secured claim, or to treat 25%

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CONT...

John Martin Kennedy

Chapter 11

of Debtor's earnings (or any other percentage) as belonging to Ms. Campos. In other words, either of those things would be contrary to the carefully negotiated settlement of the parties.

The tentative ruling is that there is enough support for this argument that it makes sense, in the interests of efficiency, to stay the adversary proceeding while Debtor is pursuing this theory. Specifically, this Court takes judicial notice that the Mediation Term Sheet expressly provides for a schedule of payments and states that the obligations shall be nondischargeable, but does not provide for such obligations to be secured by any collateral, or for any of Debtor's future earnings to belong to Ms. Campos. Therefore Debtor has at least a colorable argument that permitting Ms. Campos to assert ownership of Debtor's future earnings, or a security interest in those earnings, would be inconsistent with the carefully balanced give-and-take of their settlement, embodied in the Mediation Term Sheet.

True, prior to the petition date, when the parties were disputing whether or not the Mediation Term Sheet was binding and whether either of them breached it, Ms. Campos was free to pursue collection from Dr. Kennedy (Debtor), subject to whatever defenses and counterclaims he had at that time. But now, as this Court understands Debtor's position, under the Supremacy Clause of the United States Constitution and the provisions of the Bankruptcy Code including the automatic stay and the Code's provisions for assumption of executory contracts, Ms. Campos is barred from pursuing collection attempts or asserting any interest in Debtor's postpetition earnings that would be contrary to her agreement embodied in the Mediation Term Sheet.

For all of these reasons, the tentative ruling is to stay all matters in this adversary proceeding until further order of this Bankruptcy Court, and meanwhile proceed with Debtor's attempts to disallow some of Ms. Campos' claim, and his attempt to confirm the proposed Plan. Again, this is purely a scheduling issue, and if Debtor fails in those attempts then all rights are reserved regarding the issues in the adversary proceeding.

The tentative ruling is to set a continued status conference in this adversary proceeding for **4/27/21 at 1:00 p.m.**

(c) Debtor's Plan of reorganization (dkt. 229) and Disclosure statement (dkt. 230)

The tentative ruling is to set a **deadline of 2/5/21** for Debtor to file a

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CONT... **John Martin Kennedy**

Chapter 11

blacklined plan with the following changes:

(i) Amended Plan

(A) Internal inconsistency with defined term

The Plan contains two different definitions for "Disputed Claim or Disputed Interest" (*compare* dkt. 229, PDF p.4, para. "(C)") with dkt. 229, PDF p.19). Debtor is directed to choose one or the other.

(B) Clarifications to address ambiguous plan provisions

Debtor is directed to amend the following plan provisions to clarify ambiguities:

-Dkt. 229, PDF p.37, change the last sentence that reads "and (y) entry of an order of the Bankruptcy Court" (emphasis added) to address what type of order is contemplated.

-Dkt. 229, PDF p.38, last full paragraph, 5 to 6 lines down, change the phrase "...including, without limitation, are expressly reserved" (emphasis added) to include whatever language was intended to follow the emphasized words.

-Dkt. 229, PDF p.39, carryover paragraph, 6 lines down from top, change the phrase: "...Assumption Final Order, are [sic] such orders are not appealed by Campos" (emphasis added) to read: "Assumption Final Order, and such orders are not appealed by Campos" (Emphasis added.)

(C) Exculpation Clause

The tentative ruling is that Debtor's proposed Exculpation Clause (dkt. 229, PDF p.44) is consistent with the Ninth Circuit's decision in *Blixseth v. Credit Suisse*, 961 F.3d 1074 (9th Cir. 2020).

(ii) Disclosure Statement (dkt.230)

The tentative ruling is to authorize Debtor to disclose the dollar amounts represented by "XXXXX" in Exhibit "L" to the Disclosure Statement (dkt.230 at PDF pp.52-54). More broadly, the parties are directed to address whether there is any reason why Debtor cannot attach a non-redacted copy of the Mediation Term Sheet to the proposed Plan.

(iii) Proposed order

By **2/5/21**, Debtor is directed to lodge a proposed order, substantially in the form of the order posted on Judge Bason's portion of the Court's website (www.cacb.uscourts.gov), authorizing the service of a voting package and setting a combined hearing on final approval of the Disclosure Statement and confirmation of the Plan for the same time as the continued status conference (see below).

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CONT... John Martin Kennedy

Chapter 11

(d) Budget motion (dkt. 51), Yunuen Campos' opposition (dkt. 57), Debtor's supplemental declarations (dkt. 71), Campos' response (dkt. 92), interim order (dkt. 101), Debtor's reply (dkt. 103), interim order (dkt.138), Declaration of Samuel Biggs (dkt. 234)

Based on this Court's review of the declaration of Samuel Biggs, the tentative ruling is to approve Debtor's budget motion on a final basis, subject to any opposition at the hearing.

(e) Insider compensation, Debtor's supplemental declaration (dkt. 71), Ms. Campos' response (dkt. 92), Debtor's reply (dkt. 103), Declaration of Samuel Biggs (dkt. 234)

Based on this Court's review of the declaration of Samuel Biggs, the tentative ruling is to authorizing Ms. Howerton's monthly compensation of \$6,000 on a final basis, subject to any opposition at the hearing.

Proposed orders: Debtor is directed to lodge proposed orders on each of the foregoing motions via LOU within 7 days after the hearing date, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1) (B).

(2) Deadlines/dates. This case was filed on 6/30/20.

(a) Bar date: 10/2/20 (dkt. 39) (timely served, dkt. 52)

(b) Procedures order: dkt.4 (timely served, dkt.18).

(c) Plan/Disclosure Statement*: See section "(1)(b)" above.

(d) Continued status conference: 4/6/21 at 1:00 p.m. *Brief* status report due 3/23/21.

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

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

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CONT... John Martin Kennedy Chapter 11

COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

John Martin Kennedy

Represented By
Sandford L. Frey
Dennette A Mulvaney

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2:20-15954 John Martin Kennedy

Chapter 11

Adv#: 2:20-01626 Campos v. Kennedy

#34.00 Cont'd Status Conference re: Complaint for Declaratory and Injunctive Relief re: Determination of Validity, Priority or Extent of Interest in Property fr. 12/1/20

Docket 1

Tentative Ruling:

Tentative Ruling for 1/26/21:

Please see the tentative ruling for the main case status conference (Calendar No. 33, 1/26/21 at 1:00 p.m.).

Tentative Ruling for 12/1/20:

Appearances required.

This Court has reviewed the parties' joint status report (adv.dkt. 4) and the other filed documents and records in this adversary proceeding.

(A) Current issues

Defendant (Debtor) suggests in the status report that this Court stay all proceedings in this adversary proceeding, because his forthcoming chapter 11 plan may moot some or all issues in this adversary proceeding. Plaintiff (Ms. Campos) suggested in the status report that such issues must be decided before any plan can be confirmed.

The parties are directed to clarify the following issues. (1) Does Plaintiff (Ms. Campos) assert that, under nonbankruptcy law, the assignment order created an absolute assignment in Debtor's accounts receivable ("A/R"), or a security interest, or both?

(2) Does she assert those things not only as to (a) A/R embodied in checks that had been issued prepetition (from medical insurers and Medicare prepetition), but also (b) A/R arising from services that had been performed prepetition, but as to which checks had not been issued as of the petition date (*i.e.*, as to which such an interest arguably had not attached as of the petition date), and also (c) A/R arising from services that had yet to be performed as

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of the petition date? Phrasing these last two issues differently, is Plaintiff asserting that, under nonbankruptcy law, 25% of any checks that had yet to be cut, and 25% of any A/R that had yet to generated by Debtor's postpetition labor, belongs to Plaintiff, regardless of any interest of, for example, a different judgment creditor who obtained a judicial lien against the A/R and also claimed the same 25%?

(3) Under the Bankruptcy Code, is Plaintiff asserting that her alleged interest in each of the three types of A/R described above is superior to the interests of the bankruptcy estate, other creditors, and any exemptions that Debtor may assert in the A/R?

Depending on Plaintiff's responses, Defendant (Debtor) is directed to address how he can propose a chapter 11 plan without resolving the issues raised in this adversary proceeding. Does Defendant (Debtor) anticipate proposing payment terms (*e.g.*, payment over a time period consistent with the parties' Term Sheet) without resolving whether such payment is secured by the A/R, or whether Plaintiff (Ms. Campos) owns the A/R? Is it possible to confirm a plan that leaves such issues unresolved?

The tentative ruling is to direct the parties to address on a preliminary basis how the foregoing issues bear on whether or not to stay these proceedings. Then the tentative ruling is to continue this matter as set forth below, so that all of these issues can be better addressed after Debtor has proposed a chapter 11 plan.

(B) Standard requirements

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority

The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this Bankruptcy Court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. *See generally Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l*

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Network, Ltd. v. Sharif, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). See generally *In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation

[Intentionally omitted: it appears that mediation may be unproductive at this time.]

(3) Deadlines

This adversary proceeding has been pending since 9/23/20.

Joint Status Report: 1/19/21.

Continued status conference: 1/26/21 at 1:00 p.m.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

John Martin Kennedy

Represented By

Sandford L. Frey

Dennette A Mulvaney

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Defendant(s):

John Martin Kennedy

Represented By
Sandford L. Frey

Plaintiff(s):

Yunuen Campos

Represented By
Lauren A Dean

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2:20-15954 John Martin Kennedy

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#34.10 Hrg re: Motion Motion of Debtor for An Order Authorizing Debtor to Deviate from Court Form of Disclosure Statement (F3017) and Form of Plan (F3018)

Docket 231

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 33, 1/26/21 at 1:00 p.m.).

Party Information

Debtor(s):

John Martin Kennedy

Represented By
Sandford L. Frey
Dennette A Mulvaney

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2:20-10357 Reijo Kustaa Myllyla

Chapter 11

Adv#: 2:20-01098 Garcia et al v. Myllyla

#35.00 Cont'd Status Conference re: Complaint to Determine Dischargeability of Debt fr. 06/16/20, 7/14/20, 09/01/20, 10/6/20, 11/10/20, 12/22/20

Docket 1

Tentative Ruling:

Tentative Ruling for 1/26/21:

Please see the tentative ruling for the Status Conference in the lead Bankruptcy case (Calendar No. 37, 1/26/21 at 1:00 p.m.).

Tentative Ruling for 12/22/20:

Please see the tentative ruling for the Status Conference in the lead Bankruptcy case (Calendar No. 25, 12/22/20 at 1:00 p.m.).

Tentative Ruling for 7/14/20:

Appearances required.

Pursuant to Judge Bason's COVID19 Procedures, **ONLY TELEPHONIC APPEARANCES WILL BE PERMITTED until further notice.** Please contact CourtCall at (888) 882-6878 to make arrangements for any telephonic appearance. There is no need to contact the Court for permission. Parties who are not represented by an attorney will be able to use CourtCall for free through 8/31/20. Attorneys will receive a 25% discount (for more information, see www.cacb.uscourts.gov, "Judges," "Bason, N.," "Telephonic Instructions").

This Court has reviewed the filed documents and records in this adversary proceeding.

(A) Current issues

(1) Joint status report

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Plaintiffs and Debtor/Defendant were required to file a joint status report at least 14 days prior to this status conference, 6/30/20. See adv. dkt. 4 & 6. As of the drafting of this tentative ruling, no status report has been filed. Why not?

(2) Motion To Dismiss

In light of this Court's direction to the parties to attend mediation in section (B)(2), the tentative ruling is to continue the hearing on Debtor/Defendant's Motion to Dismiss (adv. dkt. 11) from 7/28/20 at 2:00 p.m. to the same date and time as the continued status conference set in section (B)(3) below.

(B) Standard requirements

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority

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

(2) Mediation

Is there is any reason why this Court should not order the parties to

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mediation before one of the volunteer mediators (*not* a Bankruptcy Judge), and meanwhile set the deadlines set forth below? The tentative ruling is to set a deadline of 7/28/20 for the parties to lodge a proposed mediation order (the parties are directed to use the time between now and that deadline to find a mutually agreeable mediator whose schedule can accommodate the needs of this matter; and if the parties cannot even agree on a mediator they may lodge separate orders and Judge Bason will chose among them, or issue his own order).

(3) Deadlines

This adversary proceeding has been pending since 4/13/20. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Joinder of parties/amendment of pleadings: N/A

Discovery cutoff (for completion of discovery): N/A

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

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

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

Joint Status Report: 8/18/20.

Continued status conference: 9/1/20 at 1:00 p.m.

Lodge Joint Proposed Pre-Trial Order: N/A

Pretrial conference: N/A

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

Trial commencement: N/A

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

Party Information

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Chapter 11

Debtor(s):

Reijo Kustaa Myllyla

Represented By
Byron Z Moldo

Defendant(s):

Reijo Kustaa Myllyla

Represented By
Jivko Tchakarov
Byron Z Moldo
James A Judge

Plaintiff(s):

Gilbert Martinez

Represented By
James A Judge
Jivko Tchakarov

Ofelia Argaez de Chuc

Represented By
James A Judge
Jivko Tchakarov

William Garcia

Represented By
James A Judge
Jivko Tchakarov

Roberto Melendez

Represented By
James A Judge
Jivko Tchakarov

Barbee Ann Arocho

Represented By
James A Judge
Jivko Tchakarov

Jose Chuc

Represented By
James A Judge
Jivko Tchakarov

Teresa DeJesus Ramos

Represented By
James A Judge
Jivko Tchakarov

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Carlos Canales

Represented By
James A Judge
Jivko Tchakarov

Arturo Avila

Represented By
James A Judge
Jivko Tchakarov

Froilan Hernandez Lorenzo

Represented By
James A Judge
Jivko Tchakarov

Levi A. Anonuevo

Represented By
James A Judge
Jivko Tchakarov

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2:20-10357 Reijo Kustaa Myllyla

Chapter 11

Adv#: 2:20-01098 Garcia et al v. Myllyla

#36.00 Cont'd hrg re: Motion to Dismiss Plaintiffs' Adversary Complaint to Determine Dischargeability of Debt, Filed Pursuant to Rule 12(B)(6) of The Federal Rules of Civil Procedure fr. 7/14/20, 7/28/20, 09/01/20, 10/6/20, 11/10/20, 12/22/20

Docket 11

Tentative Ruling:

Tentative Ruling for 1/26/21:

Please see the tentative ruling for the Status Conference in the lead Bankruptcy case (Calendar No. 37, 1/26/21 at 1:00 p.m.).

Tentative Ruling for 12/22/20:

Please see the tentative ruling for the Status Conference in the lead Bankruptcy case (Calendar No. 25, 12/22/20 at 1:00 p.m.).

Tentative Ruling for 7/28/20:

Continue to 9/1/20 at 1:00 p.m., to permit time for the parties to attend mediation as ordered at the 7/14/20 hearings. Appearances are not required on 7/28/20. If you wish to dispute the tentative ruling you must notify other parties of your intent to appear telephonically.

Pursuant to Judge Bason's COVID19 Procedures, **ONLY TELEPHONIC APPEARANCES WILL BE PERMITTED until further notice**. Please contact CourtCall at (888) 882-6878 to make arrangements for any telephonic appearance. There is no need to contact the Court for permission. Parties who are not represented by an attorney will be able to use CourtCall for free through 8/31/20. Attorneys will receive a 25% discount (for more information, see www.cacb.uscourts.gov, "Judges," "Bason, N.," "Telephonic Instructions").

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

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Chapter 11

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

Party Information

Debtor(s):

Reijo Kustaa Myllyla

Represented By
Byron Z Moldo

Defendant(s):

Reijo Kustaa Myllyla

Represented By
Jivko Tchakarov
Byron Z Moldo
James A Judge

Movant(s):

Reijo Kustaa Myllyla

Represented By
Jivko Tchakarov
Byron Z Moldo
James A Judge

Plaintiff(s):

Gilbert Martinez

Represented By
James A Judge
Jivko Tchakarov

Ofelia Argaez de Chuc

Represented By
James A Judge
Jivko Tchakarov

William Garcia

Represented By
James A Judge
Jivko Tchakarov

Roberto Melendez

Represented By
James A Judge

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Chapter 11

	Jivko Tchakarov
Barbee Ann Arocho	Represented By James A Judge Jivko Tchakarov
Jose Chuc	Represented By James A Judge Jivko Tchakarov
Teresa DeJesus Ramos	Represented By James A Judge Jivko Tchakarov
Carlos Canales	Represented By James A Judge Jivko Tchakarov
Arturo Avila	Represented By James A Judge Jivko Tchakarov
Froilan Hernandez Lorenzo	Represented By James A Judge Jivko Tchakarov
Levi A. Anonuevo	Represented By James A Judge Jivko Tchakarov

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2:20-10357 Reijo Kustaa Myllyla

Chapter 11

#37.00 Cont'd Status Conference re: Chapter 11 Case
fr. 02/04/20, 02/18/20, 3/3/20, 4/7/20, 5/12/20,
6/16/20, 7/14/20, 9/1/20, 10/6/20, 11/20/20,
12/22/20

Docket 6

Tentative Ruling:

**Tentative Ruling for 1/26/21:
Appearances required.**

(1) Current issues

(a) Successful mediation (adv. dkt. 49)

The parties are directed to address the terms of the settlement (per their status report, adv. dkt. 52), and whether those terms require notice to other creditors and an opportunity for those creditors to object, pursuant to a motion under Rule 9019 (Fed. R. Bankr. P.) filed in the bankruptcy case (not in the adversary proceeding). In any event, the tentative ruling is to take the adversary proceeding matters off calendar, and continue the status conference in the bankruptcy case as set forth below.

(2) Deadlines/dates. This case was filed on 1/13/20.

(a) Bar date: 5/31/20 (dkt. 27; timely served, dkt. 28).

(b) Procedures order: dkt. 3 (timely served, dkt. 9).

(c) Plan/Disclosure Statement*: TBD

(d) Continued status conference: 3/2/21 at 1:00 p.m. No written status report required.

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

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

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by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Reijo Kustaa Myllyla

Represented By
Byron Z Moldo

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2:19-18900 FAME Assistance Corporation, a Non Profit Corp.

Chapter 11

#38.00 Cont'd hrg re: Motion to Dismiss Or Convert Chapter 11 Case
fr. 12/8/20, 12/17/20

Docket 160

*** VACATED *** REASON: This matter is scheduled to be heard on
03/02/21 at 1:00 p.m. per parties' Stipulation (dkt. 189)

Tentative Ruling:

Party Information

Debtor(s):

FAME Assistance Corporation, a

Represented By
Peter T Steinberg

Movant(s):

Apex Realty, Inc.

Represented By
James R Selth
Crystle Jane Lindsey
David L. Neale
David L. Neale, Esq
Jeffrey S Kwong

BRG Adams, LLC

Represented By
David L. Neale
Jeffrey S Kwong

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2:19-18900 FAME Assistance Corporation, a Non Profit Corp.

Chapter 11

#39.00 Cont'd Status Conference re: Chapter 11 Case
fr. 8/20/19, 9/24/19,10/29/19, 11/5/19, 12/17/19,
1/28/20, 03/31/20, 5/5/20, 6/16/20, 7/14/20, 9/15/20,
11/10/20, 12/1/20, 12/8/20, 12/17/20

Docket 1

Tentative Ruling:

Tentative Ruling for 1/26/21:

Continue as set forth below. Appearances are not required on 1/26/21.

(1) Current issues

(a) Monthly Operating Report(s) ("MORs")

Debtor filed its November MOR six days late (dkt. 183) and, as of the preparation of this tentative ruling, has not filed its December MOR. At the continued status conference, Debtor should be prepared to address what remedies should this Court impose for Debtor's repeated failure to timely comply with its financial disclosure obligations.

(2) Deadlines/dates. This case was filed on 7/31/19.

(a) Bar date: 10/25/19 (dkt. 24; timely served, dkt. 26). *Exception*: the bar date for creditors Apex/BRG has been extended (see dkt. 78, 138, 156)

(b) Procedures order: dkt. 2 (timely served, dkt.23).

(c) Plan/Disclosure Statement*: TBD. See the **revised** "Procedures of Judge Bason" (available at www.cacb.uscourts.gov) (search for "Chapter 11: Plan").

(d) Continued status conference: 3/2/21 at 1:00 p.m. *Brief* status report due 2/23/21

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

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

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CONT... **FAME Assistance Corporation, a Non Profit Corp.** **Chapter 11**

www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

FAME Assistance Corporation, a

Represented By
Peter T Steinberg

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2:20-20909 VEEJ Corp

Chapter 11

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

MOSS ATKINSON FAMILY TRUST
vs
DEBTOR

Docket 30

*** VACATED *** REASON: Continue to 2/9/21 @ 1:00 p.m. per stipulation (dkt. 51).

Tentative Ruling:

Party Information

Debtor(s):

VEEJ Corp

Represented By
Jeffrey S Shinbrot

Movant(s):

Moss Atkinson Family Trust

Represented By
Giovanni Orantes

Trustee(s):

Susan K Seflin (TR)

Pro Se

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2:20-20909 VEEJ Corp

Chapter 11

#41.00 Cont'd Status Conference re: Chapter 11 Case
fr. 1/5/21

Docket 1

*** VACATED *** REASON: Continue to 2/9/21 @ 1:00 p.m. per
stipulation (dkt. 51).

Tentative Ruling:

Party Information

Debtor(s):

VEEJ Corp

Represented By
Jeffrey S Shinbrot

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2:19-10552 Attitude Marketing, Inc.

Chapter 7

#1.00 Hrg re: Motion for Order for Approval
of Sale by Auction of Proprietary Database

Docket 168

Tentative Ruling:

Appearances required.

(1) Current issues

(a) Trustee's sale motion (dkt. 168, 170), Wyndham's opposition (dkt. 169), Trustee's reply (dkt. 173)

The tentative ruling is to grant the sale motion and conditionally authorize a sale free and clear (11 U.S.C. 363(b) & (f)), subject to the following conditions. First, the proposed sale is subject to overbids at the hearing, pursuant to the proposed auction procedures including anonymity of bidders so as to reduce the risk of collusion and increase the sale price of parties who may fear litigation with Wyndham. See dkt.168, p.5:19-25.

Second, the parties are directed to address the following issues, which might affect whether the sale can be approved:

(i) Standing

Wyndham should be prepared to provide authority establishing that it has standing to raise the arguments set forth in its opposition on behalf of all parties listed in the database.

(ii) Notice

It does not appear that the Trustee has complied with LBR 6004-1(f), which requires use of F 6004-2.NOTICE.SALE. The parties are directed to address whether this Court should waive that requirement or continue this matter for the Trustee to comply.

(iii) Service, and Prohibition against sale of "personally identifiable information" ("PPI") (11 U.S.C. 363(b)(1))

The tentative ruling is to overrule Wyndham's objection on these grounds based on (a) Wyndham's failure to cite applicable authority establishing that the Trustee is required to serve all 8.5 million individuals listed in the database, and (b) the Trustee's reply papers and supporting evidence addressing the absence of any policy prohibiting the transfer of PPI

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and representing that the sale will not include any telephone numbers or PPI for California residents.

(iv) Grounds for sale free and clear

The Trustee is directed to specify at the hearing the precise legal grounds for a sale free and clear - *i.e.*, is it under 11 U.S.C. 363(f)(1), (2), (3), (4) or (5), and what the alleged grounds are under each paragraph that is applicable. See "Posted Procedures of Judge Bason" (available at www.cacb.uscourts.gov).

In addition, the Trustee is directed to file a supplemental declaration following the hearing that attaches evidence establishing the existence (or nonexistence) of all persons who may assert an interest in the property and that such persons have been served with the motion papers, so that it is apparent what interests the Trustee intends to sell free and clear of, and that all such persons received notice. See Rule 6004(c) (Fed. R. Bankr. P.).

(v) "Good faith" finding

The Trustee seeks a "good faith" finding under 11 U.S.C. 363(m). The tentative ruling is that any winning bidder who wishes to have such a finding must file declaration(s), and so must the Trustee, substantially in the form set forth in the "Posted Procedures of Judge Bason" (available at www.cacb.uscourts.gov). See *In re R.B.B., Inc.*, 211 F.3d 475, 478-80 (9th Cir. 2000) (no good faith finding when identity of purchaser was ambiguous).

Conceivably it is possible that even such declarations could keep the identity of the purchaser secret (either by declining to provide any information from which the purchaser could be identified or, possibly, by filing such a declaration under seal - although sealing documents and *in camera* review are disfavored). But any such partial disclosure would substantially weaken the evidence of good faith, as compared with disclosure to the public who might know reasons to question the alleged good faith.

Therefore, if the purchaser chooses to seek a good faith finding without revealing its identity, this Court might elect, after reviewing the declaration, to decline to make any good faith finding. In addition, a good faith finding is only as good as the evidence provided. See, *e.g.*, *In re Thomas*, 287 B.R. 782, 785-86 (9th Cir. BAP 2002) (noting that "good faith" findings are not required, and even if they often are based on a partial record "before the really interesting facts emerge" and therefore might be subject to reconsideration).

In sum, any purchaser who wants a "good faith" finding under section

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363(m) might need to reveal its identity. But this Court notes that such a finding is neither necessary for a sale nor a "trump card" that will insulate the sale from later challenges. Therefore any good faith finding might be unnecessary.

(b) Trustee's motions for admission of excerpts from depositions of Glen Chaffin (dkt. 174, 175), Wyndham response (dkt.178)

The tentative ruling is to grant these motions and admit the deposition excerpts into evidence, because Wyndham's objection about the timing of its efforts to pursue timeshare exit enterprises does not moot the Trustee's point that such efforts exist at all - *i.e.*, that any prospective purchasers of the customer list have reason to be concerned that Wyndham will sue them. Alternatively, the tentative ruling is that exclusion of those excerpts would make no difference to the outcome of the sale motion.

Proposed orders: Trustee is directed to lodge proposed orders on each of the foregoing motions via LOU within 7 days after the hearing date and attach a copy of this tentative ruling, thereby adopting it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Attitude Marketing, Inc.

Represented By

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James A Dumas Jr
Christian T Kim

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
Christian T Kim
James A Dumas Jr

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2:19-10552 Attitude Marketing, Inc.

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#1.10 Hrg re: Motion for Admission of Excerpts from the
Deposition of Glen Chaffin taken on December 16, 2019
in Support of Trustee's Reply to Objection to Motion for
Order for Approval of Sale by Auction of Proprietary Database

Docket 174

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Attitude Marketing, Inc.

Represented By
James A Dumas Jr
Christian T Kim

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
Christian T Kim
James A Dumas Jr

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2:19-10552 Attitude Marketing, Inc.

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#1.20 Hrg re: Motion for Admission of Excerpts from the Deposition of Glen Chaffin taken on May 18, 2020 in Support of Trustee's Reply to Objection to Motion for Order for Approval of Sale by Auction of Proprietary Database

Docket 175

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Attitude Marketing, Inc.

Represented By
James A Dumas Jr
Christian T Kim

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
Christian T Kim
James A Dumas Jr

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2:20-18465 Jeremy Daniel Kintner

Chapter 13

Adv#: 2:20-01656 Kintner v. State of California Department of Tax and Fee Admi

#2.00 Hrg re: Motion to Dismiss Adversary Proceeding to Redetermine Purported Tax Liability, to Recover Overpaid Amounts, and to Determine Dischargeability of any Amount Otherwise Due

Docket 4

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 2.10, 1/26/21 at 2:00 p.m.).

Party Information

Debtor(s):

Jeremy Daniel Kintner

Represented By
David S Hagen

Defendant(s):

State of California Department of

Represented By
Laura E Robbins

Plaintiff(s):

Jeremy Daniel Kintner

Represented By
Mark Bernsley

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:20-18465 Jeremy Daniel Kintner

Chapter 13

Adv#: 2:20-01656 Kintner v. State of California Department of Tax and Fee Admi

- #2.10** Cont'd status conference re: Complaint to redetermine purported tax liability, to recover overpaid amounts, and to determine dischargeability of any amount otherwise due fr. 1/12/21

Docket 1

Tentative Ruling:

Tentative Ruling for 1/26/21:

Appearances required.

(A) Current issues

(1) Background

Plaintiff/Debtor's complaint (adv. no. 2:20-ap-01656-NB, dkt.1) seeks:

(a) tax adjudication: an order or judgment under 11 U.S.C. 505 disallowing the \$71,521.41 claim no.3 of Defendant (a California tax authority) as "invalid and unconstitutional" or, in the alternative,

(b) discharge: a determination under 11 U.S.C. 1328 that the claim is dischargeable. See *id.*, p.6 (prayer for relief).

Defendant's tax claim apparently is founded on a sales tax assessment made under Cal. Code. Regs. tit. 18, §1702.6, which provides for personal liability of corporate officers and stockholders in certain circumstances.

(2) Defendant's Motion to Dismiss (dkt. 4), Plaintiff's Opposition (dkt. 7) and Defendant's Reply (dkt. 8, 9).

Defendant moves to dismiss Plaintiff's claim under 11 U.S.C. 505, asserting that this Bankruptcy Court lacks jurisdiction to hear the proceeding pursuant to 11 U.S.C. § 505(a)(2)(A). In the alternative Defendant asserts that if this Bankruptcy Court rules that it does have jurisdiction, then based on discretionary abstention and comity this claim should not be heard. The tentative ruling is to DENY the request to dismiss the Plaintiff's claim under 11 U.S.C. 505 for the reasons stated below.

Defendant also moved to dismiss Plaintiff/Debtor's claim under 11 U.S.C. 1328. The tentative ruling is to DENY that request as well, for the

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reasons stated below.

The tentative ruling is that much of Defendant's objection (adv.dkt.9) to Plaintiff/Debtor's request for judicial notice ("RJN," adv.dkt.7) is well taken. But the tentative ruling is that this makes no difference to the outcome of the MTD.

(a) 11 U.S.C. § 505(a)(2)(A) does not Deprive this Bankruptcy Court of Jurisdiction, nor has Defendant established that dismissal is appropriate as a matter of discretionary abstention, comity, or other principles

Under 11 U.S.C. § 505(a)(2)(A) a bankruptcy court may not determine the legality of a tax if the legality of the tax previously was contested before and adjudicated by a judicial or administrative tribunal. 11 U.S.C. § 505(a)(2)(A) is a statutory embodiment of the principles of *res judicata*. See *Cent. Valley Agric. Enters. v. United States*, 531 F.3d 750, 755 (9th Cir. 2008). Plaintiff argues that *res judicata* cannot apply here because none of the prior proceedings addressed the merits of Plaintiff's challenge to the legality of the tax assessment.

On the one hand, Defendant points out that this adversary proceeding is the latest among numerous administrative hearings and State Court cases for much of the past a decade in which Plaintiff/Debtor challenged his tax liability, including raising the same challenges he now makes. It is certainly frustrating to have such long-running litigation.

On the other hand, the tentative ruling is that Plaintiff/Debtor is correct that none of these proceedings resulted in a final adjudication on the merits of his current claims - in fact, the administrative tribunals and the State Court expressly declined to reach those merits, at the request of Defendant (or its predecessor agency). The hearing panels convened by the administrative agency refused to question the legality of its own regulation, and the State Courts dismissed Plaintiff/Debtor's cases as they were barred by the requirement that Plaintiff/Debtor "pay first" and then sue for a refund, under Article XIII, Section 32 of the California Constitution. Adv.dkt. 4-1, PDF pp. 57-58. Without a final adjudication there is no *res judicata*, and the exception in 11 U.S.C. 505(a)(2)(A) does not apply.

True, Article XIII, Section 32 of the California Constitution normally would bars Plaintiff/Debtor's complaint because it requires that challenged tax assessments must be paid and can only be challenged via a postpayment refund action. But bankruptcy courts are vested with the authority to decide

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tax issues pursuant to 11 U.S.C. § 505, without requiring debtors to pay the tax liability first.

The policy behind this statutory scheme is to "protect[] a debtor from being bound by a pre-bankruptcy tax liability determination that, because of a lack of financial resources, he or she was unable to contest." *In re Mantz*, 343 F.3d 1207, 1211 (9th Cir. 2003) (emphasis added). See also *Cent. Valley AG Enter. v. U.S.*, 531 F.3d 750, 755 (quoting and following *Mantz*).

As for principles of comity, Plaintiff/Debtor has cited authority that California itself would not apply *res judicata* to bar his claims. Nor does it appear that discretionary abstention is appropriate when the claims that Plaintiff/Debtor now seeks to assert have never been addressed, because of the "pay first" requirement.

True, Defendant asserts that Plaintiff/Debtor has resources that he has not disclosed, and that perhaps, unlike a typical debtor in bankruptcy, other creditors would not be harmed by enforcing the "pay first" requirement, and there would be no unfairness to Plaintiff/Debtor. But the tentative ruling is that (i) such evidentiary issues cannot be adjudicated in the context of a motion to dismiss; (ii) there is insufficient evidence presented; (iii) there are other remedies, such as dismissal of Plaintiff/Debtor's bankruptcy case, and possibly the imposition of a bar under 11 U.S.C. 109(g)(1), if it turns out that he is omitting assets or otherwise misusing the bankruptcy system; and (iv) any such considerations of the facts of this particular case do not bear on the interpretation of 11 U.S.C. 505.

For all of the foregoing reasons, the tentative ruling is that this Court has jurisdiction to hear this case, because none of the prior proceedings concluded with an "adjudication" as set forth in 11 U.S.C. § 505(a)(2)(A). Nor, in this motion to dismiss context, is this Bankruptcy Court persuaded that principles of comity or discretionary abstention prevent the consideration of Plaintiff/Debtor's claims under the "pay first" rule. Conceivably, if the record is further developed, such issues could be revisited in a motion to abstain or some other motion or proceeding, but that is not the subject of today's hearing and this Bankruptcy Court expresses no view on these issues.

(b) Dischargeability

Defendant asserts that a discharge is only granted upon completion of payments under 11 U.S.C. 1328, and no plan has yet been confirmed, so Plaintiff/Debtor fails to state a claim on which relief can be granted. But,

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construing the Complaint in the light most favorable to Plaintiff/Debtor (as this Bankruptcy Court must in the MTD context), he is seeking a declaratory judgment, before committing to devoting all of his disposable income for five years, that such commitment will not be in vain.

The tentative ruling is that this is a proper use of a complaint for declaratory relief. Defendant has not cited any contrary authority.

(3) Future proceedings

The parties should be prepared to address anticipated future proceedings, and whether this Court should set deadlines or procedures. As a starting point, Plaintiff/Debtor is directed to clarify his theory of this adversary proceeding.

He acknowledges that Cal. Rev. & Tax. Code § 6829 provides for liability for corporate officers "or other person having control or supervision of, or who is charged with the responsibility for the filing of returns or the payment of tax," for unremitted sales and use taxes upon the "termination, dissolution or abandonment of the business of a corporation." See RJN (adv.dkt.7) Ex.5 at PDF p.55 (emphasis added), and see also *id.* at 162:21-25. His theory appears to be that Defendant (or its predecessor agency) acted beyond its authority when it promulgated a regulation (Cal. Code. Regs. tit. 18 §1702.6, RJN (adv.dkt.7) Ex.9 at PDF pp.85-87) interpreting the "termination" or "abandonment" of a "business" to include periods when the corporation was suspended and thus prohibited by law from conducting any business. Complaint (adv.dkt.1), pp. 3:16–19, 4:1–5. Plaintiff/Debtor is directed to clarify whether that is his theory.

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

(B) Standard requirements

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

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(1) Venue/jurisdiction/authority

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

(2) Mediation

[Intentionally omitted.]

(3) Deadlines

This adversary proceeding has been pending since 11/9/20. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Joinder of parties/amendment of pleadings-deadline: TBD

Discovery cutoff (for completion of discovery): TBD

Expert(s) - deadline for reports: TBD

Expert(s) - discovery cutoff (if different from above): TBD

Dispositive motions to be heard no later than: TBD

Joint Status Report: 2/16/21

Continued status conference: 3/2/21 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers, including direct

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testimony by declaration unless excused: TBD

Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 1/12/21:

Continue to 1/26/21 at 2:00 p.m. to be held contemporaneously with the hearing on the defendant's motion to dismiss (dkt. 4). Appearances are not required on 1/12/21.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

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CONT... Jeremy Daniel Kintner

Chapter 13

Debtor(s):

Jeremy Daniel Kintner

Represented By
David S Hagen

Defendant(s):

State of California Department of

Pro Se

Plaintiff(s):

Jeremy Daniel Kintner

Represented By
Mark Bernsley

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:17-23866 Felisa Dee Richards

Chapter 13

Adv#: 2:20-01665 Richards v. Ajax Mortgage Loan Trust 2018-G, Mortgage-Backed S

#3.00 Hrg re: Motion to Dismiss Complaint for Failure to State
a Claim Upon Which Relief Can be Granted

Docket 7

Tentative Ruling:

Please see the tentative ruling for the adversary status conference (Calendar No. 4, 1/26/21 at 2:00 p.m.).

Party Information

Debtor(s):

Felisa Dee Richards

Represented By
William D Bowen

Defendant(s):

Ajax Mortgage Loan Trust 2018-G,

Represented By
Reilly D Wilkinson

Plaintiff(s):

Felisa Dee Richards

Represented By
William D Bowen

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:17-23866 Felisa Dee Richards

Chapter 13

Adv#: 2:20-01665 Richards v. Ajax Mortgage Loan Trust 2018-G, Mortgage-Backed S

#4.00 Status Conference re: Adversary Complaint

Docket 1

Tentative Ruling:

Appearances are not required on 1/26/21.

(A) Current issues

(1) Defendant's Motion to Dismiss Complaint (adv. dkt. 7, "MTD"), Plaintiff/Debtor's limited opposition (adv. dkt. 11), Defendant's reply (adv. dkt. 14)

The tentative ruling is to grant the MTD, without leave to amend because, for the reasons set forth in Defendant's motion and reply papers, Debtor has not established that any amendment would not be futile. See Rule 15(a)(2) (Fed. R. Civ. P.), made applicable by Rule 7015 (Fed. R. Bankr. P.); see also *Amerisourcebergen Corp. v. Dialysis West, Inc.*, 445 F.3d 1132 (9th Cir. 2006) (Courts "need not grant leave to amend where the amendment . . . is futile").

(B) Status conference

The tentative ruling is that it is appropriate to set a continued status conference, notwithstanding the anticipated dismissal of the Complaint without leave to amend, to address any post-dismissal issues. See, e.g., dkt. 12 (Wilkinson Decl.). The tentative ruling is to set that status conference for 3/9/21 at 2:00 p.m., with no written status report required.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov

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instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Felisa Dee Richards

Represented By
William D Bowen

Defendant(s):

Ajax Mortgage Loan Trust 2018-G,

Pro Se

Plaintiff(s):

Felisa Dee Richards

Represented By
William D Bowen

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:13-26483 Saeed Cohen

Chapter 11

#5.00 Cont'd Status Conference re: Post Confirmation
fr. 5/23/17, 8/8/17, 9/12/17, 12/12/17, 1/9/18,
4/10/18, 4/17/18, 07/17/18, 11/20/18, 12/11/18,
03/12/19, 3/26/19; 08/06/19, 11/5/19, 12/10/19,
3/10/20, 6/30/20, 9/29/20

Docket 0

Tentative Ruling:

Tentative Ruling for 1/26/21:

Continue to 3/2/21 at 2:00 p.m. to address the following issues, with a brief status report due 2/16/21. Appearances are not required on 1/26/21.

This Court was persuaded to continue the 9/29/20 hearing based on the Debtor's status report (dkt. 1537) and required the filing of a written status report no later than 1/12/21. As of the date of this tentative ruling, no status report has been filed. Why not?

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 9/29/20:

Continue this status conference to 1/26/21 at 2:00 p.m., with a *brief* status report due 1/12/21 based on Debtor's status report (dkt. 1537). Appearances are not required on 9/29/20.

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[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Saeed Cohen

Represented By
Ron Bender
Krikor J Meshefejian
Kurt Ramlo
Beth Ann R Young
Todd M Bailey

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2:18-12429 Dana Hollister

Chapter 11

Adv#: 2:18-01203 The Bird Nest, LLC et al v. Hollister

#6.00 Cont'd Status Conference re: Complaint to Determine
Non-Dischargeability of Debt
fr. 8/14/18, 12/18/18, 6/4/19, 11/26/19, 12/10/19,
6/16/20, 12/08/20

Docket 1

***** VACATED *** REASON: Cont'd to 6/15/21 at 2:00 p.m.**

Tentative Ruling:

Party Information

Debtor(s):

Dana Hollister

Represented By
David A Tilem

Defendant(s):

Dana Hollister

Pro Se

Plaintiff(s):

The Bird Nest, LLC

Represented By
Howard Steinberg

Roman Catholic Archbishop of Los

Represented By
Howard Steinberg

The California Institute of the Sisters

Represented By
Howard Steinberg

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

Tuesday, January 26, 2021

Hearing Room 1545

2:00 PM

2:18-12429 Dana Hollister

Chapter 11

#7.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 10/1/19, 11/12/19, 11/21/19, 01/14/20, 03/03/20,
04/07/20, 5/19/20, 7/14/20, 7/28/20, 8/4/20, 9/15/20,
10/27/20

BOBS, LLC
vs
DEBTOR

Docket 936

***** VACATED *** REASON: This matter is scheduled to be heard on
04/27/21 at 2:00 p.m. per parties' Stipulation (dkt. 1319)**

Tentative Ruling:

Party Information

Debtor(s):

Dana Hollister

Represented By
David A Tilem
Mark A Kressel
Alan M Insul

Movant(s):

Bobs, LLC

Represented By
David I Brownstein
Gerrick Warrington

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

Tuesday, January 26, 2021

Hearing Room 1545

2:00 PM

2:18-12429 Dana Hollister

Chapter 11

#8.00 Cont'd Status Conference re: Chapter 11 Case
fr. 3/9/18, 3/20/18, 3/21/18, 4/17/18, 5/3/18, 5/7/18,
6/12/18, 6/22/18, 7/16/18, 8/3/18, 9/4/18, 11/6/18,
01/15/19, 1/29/19, 2/26/19, 3/26/19, 4/16/19;
04/29/19, 05/21/19, 5/28/19, 6/18/19, 7/2/19; 08/06/19,
10/15/19, 11/12/19, 11/21/19, 01/14/20, 3/3/20, 3/10/20,
04/07/20, 5/19/20, 6/16/20, 6/30/20, 7/14/20, 7/28/20,
8/4/20, 09/15/20, 10/27/20, 12/8/20

Docket 1

***** VACATED *** REASON: Cont'd to 2/25/21 at 9:00 a.m.**

Tentative Ruling:

Party Information

Debtor(s):

Dana Hollister

Represented By
David A Tilem
Mark A Kressel
Alan M Insul

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, January 26, 2021

Hearing Room 1545

2:00 PM

2:18-24302 GL Master Inc

Chapter 7

#9.00 Second Cont'd Evidentiary Hrg re: Order to Show Cause re: Civil Contempt and Directing (i) Debtor, (ii) Freda Wang, (iii) Thomas Polis, (iv) Lynn Chao, (v) The Law Offices of Lynn Chao to Appear and Show Cause Why This Court Should Not Find Them in Contempt and Impose Sanctions fr. 8/19/20, 9/17/20, 11/3/20, 12/1/20, 12/22/20, 1/5/21

Docket 173

Tentative Ruling:

Tentative Ruling for 1/26/21:

This Court anticipates issuing a Memorandum Decision, prior to the hearing, on the matters taken under submission. Appearances required.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 1/5/21:

Continue to 1/26/21 at 2:00 p.m. for issuance of a Memorandum Decision on the matters taken under submission. Appearances are not required on 1/5/21.

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

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CONT... GL Master Inc

Chapter 7

www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 12/22/20:

Continue to 1/5/21 at 2:00 p.m. for issuance of a Memorandum Decision on the matters taken under submission. Appearances are not required on 12/22/20.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 12/1/20:

Continue to 12/22/20 at 2:00 p.m. for issuance of a Memorandum Decision on the matters taken under submission. Appearances are not required on 12/1/20.

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

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CONT... GL Master Inc

Chapter 7

are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

GL Master Inc

Represented By
Thomas J Polis

Trustee(s):

Edward M Wolkowitz (TR)

Pro Se

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

Tuesday, January 26, 2021

Hearing Room 1545

2:00 PM

2:18-24302 GL Master Inc

Chapter 7

#10.00 Cont'd Order to Show Cause re: Civil Contempt Against
Young Young Food LLC, and For Sanctions
fr. 10/27/20, 12/1/20, 12/22/20, 1/5/21

Docket 213

Tentative Ruling:

Tentative Ruling for 1/26/21:

Appearances required.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 1/5/21:

Continue to 1/26/21 at 2:00 p.m. for issuance of a Memorandum Decision on the related matters taken under submission (see calendar no.1, 1/5/21 at 2:00 p.m.). Appearances are not required on 1/5/21.

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

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CONT... GL Master Inc

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COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 12/22/20:

This Court is very troubled by the reported state of discovery (*see, e.g.*, Alleged Employees' Reply, dkt. 264, filed 12/18/20). But this Court believes that the issues can be more productively addressed once this Court issues its Memorandum Decision on the related discovery disputes involving, *inter alia*, Debtor and its law firm, the Law Offices of Lynn Chao. Accordingly, the tentative ruling is to continue this hearing to 1/5/21 at 2:00 p.m. Appearances are not required on 12/22/20.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 12/1/20:

Appearances required.

Current issues

(a) Contempt order (dkt. 237)

(i) Compensatory sanctions

This Court has reviewed the Alleged Employees' time records (dkt. 241). As of the preparation of this tentative ruling, YYF has not filed an opposition.

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CONT...

GL Master Inc

Chapter 7

The tentative ruling is to award fees in the amount of \$12,100 and costs in the amount of \$59.85, for a total compensatory sanction against YYF in the amount of **\$12,159.58**, payable to the Alleged Employees as compensation for the fees and costs they were forced to incur to compel compliance.

(ii) Status of compliance

The parties should be prepared to advise this Court on whether (x) coercive sanctions are appropriate (*i.e.*, whether Young failed to produce all responsive documents by 11/20/20 at 5:00 p.m.); and (y) Young responded to the Alleged Employees' written interrogatories by the 11/25/20 at noon deadline.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 10/27/20:

Appearances required.

Current issues

(1) Alleged employees' motion for issuance of order directing Young Young Food LLC ("YYF") to appear for 2004 examination and production of documents (dkt. 146, "2004 Motion"); Order granting 2004 Motion (dkt. 160, "2004 Order"); Alleged employees' motion for issuance of OSC re contempt (dkt. 202, "Motion for OSC"), Order setting hearing on Motion for OSC (dkt. 215, the "OSC"), YYF's opposition papers (dkt. 225, 226, 227), Alleged employees' reply papers (dkt. 228, 230)

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CONT...

GL Master Inc

Chapter 7

The tentative ruling is to find YYF in contempt of court and impose sanctions in an amount to be determined at the hearing and subsequent proceedings, as set forth below.

(a) The alleged employees have made a sufficient showing that YYF violated this Court's 2004 Order and YYF has not responded with argument or evidence establishing that it was impossible to comply

The tentative ruling is to overrule YYF's opposition, grant the Sanctions Motion for the reasons stated in the Alleged Employees' reply papers (dkt. 228, 230), and find that YYF is in contempt of the 2004 Order.

In addition and alternatively, the tentative ruling is that on the merits this Court is not persuaded by YYF's arguments that the (i) 2004 Order is overbroad and (ii) seeks discovery that could and should have been sought in a pending nonbankruptcy proceeding for the same reasons stated in this Court's prior rulings and orders addressing those arguments. See Order (dkt. 173) at PDF p.12, para. "(b)"; Order (dkt. 117) at PDF p.5, para. "(c)"; and Order (dkt. 101) at PDF pp.6-7, para. "(3)."

(b) Sanctions

(i) Compensatory

The tentative ruling is to grant the Alleged Employees' request for compensatory sanctions to reimburse them for their costs incurred preparing and filing the Sanctions Motion, responding to the OSC, and appearing at this hearing. The tentative ruling is to set **a deadline of 11/5/20** for the Alleged Employees to file and serve a declaration setting forth their time records and expenses, **11/13/20 for any opposition, 11/19/20 for any reply, and a hearing on 12/1/20 at 2:00 p.m.**

(ii) Coercive

The tentative ruling is to award coercive sanctions, in an escalating dollar amount to be addressed at the hearing.

(iii) Examination by written discovery

The tentative ruling is to grant the Alleged Employees' request to obtain written discovery of YYF, *in lieu* of any in person examination out of concerns presented by the risks of COVID-19, by propounding 20 interrogatories on YYF, without prejudice to any follow-up discovery. The parties should be prepared to address what deadlines, if any, this Court should set for serving and responding to the Alleged Employees' interrogatories (or if this Court should defer to the parties to act within the usual procedures).

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CONT...

GL Master Inc

Chapter 7

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

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, all appearances are telephonic via CourtCall at (888) 882-6878.

Party Information

Debtor(s):

GL Master Inc

Represented By
Thomas J Polis

Trustee(s):

Edward M Wolkowitz (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, January 26, 2021

Hearing Room 1545

2:00 PM

2:19-18316 Ashley Susan Aarons

Chapter 11

#11.00 Cont'd hrg re: U.S. Trustee's Motion to Dismiss or Convert Case
fr. 10/15/19, 10/29/19, 12/10/19, 1/14/20, 03/31/20, 4/7/20,
4/21/20, 5/5/20, 6/16/20, 6/30/20, 8/4/20, 9/29/20, 10/14/20,
10/23/20, 11/12/20, 12/8/20, 12/22/20, 1/5/21

Docket 65

Tentative Ruling:

Tentative Ruling for 1/26/21:

Please see the tentative ruling for the status conference (Calendar No. 13,
1/26/21 at 2:00 p.m.).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Ashley Susan Aarons

Represented By
James C Bastian Jr
Rika Kido

Movant(s):

United States Trustee (LA)

Represented By
Dare Law
Alvin Mar
Ron Maroko

Trustee(s):

John-Patrick McGinnis Fritz (TR)

Pro Se

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

Tuesday, January 26, 2021

Hearing Room 1545

2:00 PM

2:19-18316 Ashley Susan Aarons

Chapter 11

#12.00 Cont'd hrg re: Plan Confirmation and Related Deadlines
fr. 9/29/20, 10/14/20, 10/23/20, 11/12/20, 12/8/20, 12/22/20,
1/5/21

Docket 313

Tentative Ruling:

Tentative Ruling for 1/26/21:

Please see the tentative ruling for the status conference (Calendar No. 13,
1/26/21 at 2:00 p.m.).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Ashley Susan Aarons

Represented By
James C Bastian Jr
Rika Kido

Trustee(s):

John-Patrick McGinnis Fritz (TR)

Pro Se

**United States Bankruptcy Court
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Los Angeles
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Hearing Room 1545

2:00 PM

2:19-18316 Ashley Susan Aarons

Chapter 11

#13.00 Cont'd Status Conference re: Chapter 11 Case
fr. 8/20/19, 9/24/19, 10/4/19, 10/15/19, 10/29/19,
11/12/19, 12/10/19, 1/14/20, 03/31/20, 4/7/20,
4/21/20, 5/5/20, 6/16/20, 6/30/20, 8/4/20, 9/29/20,
10/14/20, 10/22/20, 11/12/20, 12/8/20, 12/22/20,
1/5/21

Docket 1

Tentative Ruling:

Tentative Ruling for 1/26/21:
Appearances required.

(1) Current issues

(a) Motion of the U.S. Trustee ("UST") to dismiss (dkt. 65, "MTD"), Debtor's opposition (dkt. 86), UST's reply (dkt. 168, 170), Debtor's response (dkt. 179), Debtor's status report (dkt. 180), stipulation and order re pre-petition bank account (dkt. 212, 221)

The outcome of this motion may depend on whether this Court confirms Debtor's amended plan.

(b) Debtor's Amended plan (dkt. 313) (see also Disclosure Statement, dkt. 311), order setting confirmation hearing (dkt. 317), proof of service of solicitation package (dkt. 324), Debtor's confirmation brief (dkt. 329), ballot summary (dkt. 330), objection of Post Acute Care Partners, Inc. ("Post") (dkt. 332), objection of Shiv Raj & Saroj Gupta ("Guptas") (dkt. 333), Debtor's Reply (dkt. 335), Debtor's supplemental brief (dkt. 369), Guptas' supplemental response (dkt. 372), supplemental response of Verus Securitization Trust 2020-NPL1 ("Verus"), as successor to Patch of Land et al. (dkt. 373), Debtor's supplemental reply (dkt. 374)

The tentative ruling is that if Debtor can provide evidence, or an offer of proof, regarding removal of the appraisal contingency on the JSS Financial refinancing (see dkt.374, p.5:5-7), the imminent payment of Verus, and the alleged commitment of Janet Sexton to contribute \$45,000, then Debtor will have presented sufficient evidence of feasibility, sufficient "new value" to

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CONT...

Ashley Susan Aarons

Chapter 11

satisfy the "new value corrolary" (aka "exception") to the absolute priority rule, good faith, and the other elements required for confirmation. Although some significant uncertainties remain, and although it is possible that nonpriority unsecured creditors would receive a greater recovery in some scenarios, it is more likely on the present record that they would receive less in most scenarios, and as a matter of law Debtor is only required to show that the plan's treatment of non-consenting impaired classes is "fair and equitable" and does not discriminate unfairly - not that the plan is the best of all possible outcomes.

(3) Deadlines/dates. This case was filed on 7/17/19.

(a) Bar date: 12/20/19, dkt. 116 (timely served, dkt. 120)

(b) Procedures order: dkt.9 (timely served, dkt.18)

(c) AmPlan/AmDisclosure Statement*: See above.

(d) Continued status conference: If there are unresolved confirmation issues, this Court anticipates setting either a continued hearing/status conference on 3/2/21 at 2:00 p.m. and/or a further evidentiary hearing (at a date and time to be determined).

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

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

**Tentative Ruling for 1/5/20 (substantially the same as for 10/6/20
[continued per dkt. 339],10/14/20, 10/22/20, 11/12/20, 12/8/20, 12/22/20**

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CONT... Ashley Susan Aarons

Chapter 11

[continued with no change]:

Appearances required.

(1) Current issues

(a) Motion of the U.S. Trustee ("UST") to dismiss (dkt. 65, "MTD"), Debtor's opposition (dkt. 86), UST's reply (dkt. 168, 170), Debtor's response (dkt. 179), Debtor's status report (dkt. 180), stipulation and order re pre-petition bank account (dkt. 212, 221)

The outcome of this motion may depend on whether this Court confirms Debtor's amended plan.

(b) Debtor's Amended plan (dkt. 313) (see also Disclosure Statement, dkt. 311), order setting confirmation hearing (dkt. 317), proof of service of solicitation package (dkt. 324), Debtor's confirmation brief (dkt. 329), ballot summary (dkt. 330), objection of Post Acute Care Partners, Inc. ("Post") (dkt. 332), objection of Shiv Raj & Saroj Gupta ("Guptas") (dkt. 333), Debtor's Reply (dkt. 335)

This Court has reviewed Debtor's latest status report (dkt. 363) regarding the continued delays in obtaining any relief from the stay in the Florida Receivership case. The parties are directed to address whether they will consent to a further continuance.

Debtor is also directed to provide an update regarding any proposed resolutions with the Guptas and others, and any proposed refinancing.

(c) MOR (10/31/20, dkt.355)

Debtor is expending substantial sums described only as "marketing." Debtor is directed to address what is the actual nature of these expenses.

(3) Deadlines/dates. This case was filed on 7/17/19.

(a) Bar date: 12/20/19, dkt. 116 (timely served, dkt. 120)

(b) Procedures order: dkt.9 (timely served, dkt.18)

(c) AmPlan/AmDisclosure Statement*: See above.

(d) Continued status conference: If there are unresolved confirmation issues, this Court anticipates setting either a continued hearing/status conference on 1/26/20 at 2:00 p.m. and/or a further evidentiary hearing (at a date and time to be

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Ashley Susan Aarons
determined).

Chapter 11

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

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[INTERIM TENTATIVE RULINGS OMITTED]

Tentative Ruling for 9/29/20:

Appearances required.

(1) Current issues

(a) Motion of the U.S. Trustee ("UST") to dismiss (dkt. 65, "MTD"), debtor's opposition (dkt. 86), UST's reply (dkt. 168, 170), debtor's response (dkt. 179), debtor's status report (dkt. 180), stipulation and order re pre-petition bank account (dkt. 212, 221)

There is no tentative ruling. The outcome of this motion may depend on whether this Court confirms Debtor's amended plan.

(c) Debtor's Amended plan (dkt. 313) (see a/so Disclosure Statement, dkt. 311), order setting confirmation hearing (dkt. 317), proof of service of solicitation package (dkt. 324), Debtor's confirmation brief (dkt. 329), ballot summary (dkt. 330), objection of Post Acute Care Partners, Inc. ("Post") (dkt. 332), objection of Shiv Raj & Saroj Gupta ("Guptas") (dkt. 333), Debtor's Reply (dkt. 335)

The tentative ruling is that (x) Debtor has adequately addressed Post's

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CONT... Ashley Susan Aarons

Chapter 11

objection; (y) Debtor has adequately addressed the non-materiality of her proposed minor modifications to the Plan (*i.e.*, re-balloting is not required); and (z) Debtor has provided sufficient arguments and evidence to overrule most of the Guptas' objections. The Guptas' objections that Debtor has not yet sufficiently addressed are explained below.

(A) Best Interest Test (11 U.S.C. 1129(a)(7)): Debtor's calculations require an adjustment, but even with an adjustment the Guptas have not rebutted Debtor's showing that the Plan satisfies the best interest test

The tentative ruling is that Debtor's alternative liquidation analysis (dkt.335, pp.11-12) should be adjusted to account for the possibility that the secured claim asserted by Patch Of Land ("Patch" or "POL") might be reduced to some extent, based on objections to default interest and other claims by the bankruptcy estate. But the tentative ruling - based on this Court's familiarity with numerous disputes in other cases regarding default rates of interest and other charges - is that the possibility of such reduction, discounted to present value, is less than shortfall in funds that would be available in any hypothetical chapter 7 case. See Debtor's Reply (dkt.335), p.12. See *generally, e.g., East-West Bank v. Altadena Lincoln Crossing, LLC*, 598 B.R. 633 (C.D. Cal. 2019)

The tentative ruling is that a precise dollar estimate is not required because the shortfall is hundreds of thousands of dollars; the discount to Patch's claim would not be greater than that. In other words, even with the adjustment to Patch's claim as described above, there would be \$-0- for general unsecured creditors in a hypothetical chapter 7 case.

Alternatively, assuming for the sake of discussion that any adjustments to Debtor's liquidation analysis would be enough to provide any projected recovery for nonpriority unsecured creditors, that in itself does not establish that liquidation would be in the best interests of creditors. Rather, the issue would require further evidence because any such projected chapter 7 recovery still would have to exceed the projected recovery under Debtor's proposed Plan, and the latter requires more evidence (as noted below).

(B) Adequate means for implementation (11 U.S.C. 1123(a)(5)) and feasibility (11 U.S.C. 1129(a)(11))

Debtor is directed to address whether she has evidence of sufficient loan commitments and/or gift commitments from family and friends to make

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, January 26, 2021

Hearing Room 1545

2:00 PM

CONT...

Ashley Susan Aarons

Chapter 11

her proposed commitments in the Plan adequate and feasible. See, e.g., Debtor's Reply (dkt.335), p.14:2-8. The parties are directed to address whether any evidentiary hearing will be necessary to address the sufficiency of such evidence, and the possible scheduling of any such evidentiary hearing and any related matters.

(2) Deadlines/dates. This case was filed on 7/17/19.

(a) Bar date: 12/20/19, dkt. 116 (timely served, dkt. 120)

(b) Procedures order: dkt.9 (timely served, dkt.18)

(c) AmPlan/AmDisclosure Statement*: See above.

(d) Continued status conference: If there are unresolved confirmation issues, this Court anticipates setting either a continued hearing/status conference on 10/6/20 at 2:00 p.m. and/or an evidentiary hearing (at a date and time to be determined). Alternatively, if the Plan were to be confirmed at today's hearing, the tentative ruling would be to set a post-confirmation status conference for 1/12/21 at 2:00 p.m.

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

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, all appearances are telephonic via CourtCall at (888) 882-6878.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Ashley Susan Aarons

Represented By
James C Bastian Jr
Rika Kido

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

Tuesday, January 26, 2021

Hearing Room 1545

2:00 PM

CONT... Ashley Susan Aarons

Chapter 11

Trustee(s):

John-Patrick McGinnis Fritz (TR)

Pro Se

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

Monday, February 1, 2021

Hearing Room 1545

9:00 AM

2:16-21559 David MacMillan

Chapter 7

Adv#: 2:17-01545 Gonzalez v. Macmillan et al

#1.00 Hrg re: Motion for Admission of the Excerpts from the Deposition
of Charles Morris Taken on March 27, 2019 in Support of Trial

Docket 197

***** VACATED *** REASON: See Stipulation for Entry of Judgment (adv.
dkt. 234)**

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Defendant(s):

David W. Macmillan

Represented By
Robert S Altagen

Cynthia B. Martin

Represented By
Robert S Altagen

Aston Business Solutions, Inc.

Represented By
William H Brownstein

Eric A. Martin

Represented By
William H Brownstein

Glenn J. Chaffin

Represented By
William H Brownstein

Andrae Perez

Pro Se

Accelerated Capital Group, Inc.

Pro Se

Does I through XX

Pro Se

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

Monday, February 1, 2021

Hearing Room 1545

9:00 AM

CONT... David MacMillan

Chapter 7

Plaintiff(s):

Rosendo Gonzalez

Represented By
James A Dumas Jr
Christian T Kim
Ann Chang

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr
Christian T Kim

Peter J Mastan (TR)

Pro Se

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

Monday, February 1, 2021

Hearing Room 1545

9:00 AM

2:16-21559 David MacMillan

Chapter 7

Adv#: 2:17-01545 Gonzalez v. Macmillan et al

#2.00 Hrg re: Motion for Admission of Excerpts from the Deposition
of Cynthia Barrett Martin Taken on October 17, 2017 in Support
of Trial

Docket 201

***** VACATED *** REASON: See Stipulation for Entry of Judgment (adv.
dkt. 234)**

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Defendant(s):

David W. Macmillan

Represented By
Robert S Altagen

Cynthia B. Martin

Represented By
Robert S Altagen

Aston Business Solutions, Inc.

Represented By
William H Brownstein

Eric A. Martin

Represented By
William H Brownstein

Glenn J. Chaffin

Represented By
William H Brownstein

Andrae Perez

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Accelerated Capital Group, Inc.

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Pro Se

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

Monday, February 1, 2021

Hearing Room 1545

9:00 AM

CONT... David MacMillan

Chapter 7

Plaintiff(s):

Rosendo Gonzalez

Represented By
James A Dumas Jr
Christian T Kim
Ann Chang

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr
Christian T Kim

Peter J Mastan (TR)

Pro Se

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

Monday, February 1, 2021

Hearing Room 1545

9:00 AM

2:16-21559 David MacMillan

Chapter 7

Adv#: 2:17-01545 Gonzalez v. Macmillan et al

#3.00 Hrg re: Motion for Admission of Excerpts from the Deposition
of Cynthia Barrett Martin Taken on February 21, 2019 in
Support of Trial

Docket 202

***** VACATED *** REASON: See Stipulation for Entry of Judgment (adv.
dkt. 234)**

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Defendant(s):

David W. Macmillan

Represented By
Robert S Altagen

Cynthia B. Martin

Represented By
Robert S Altagen

Aston Business Solutions, Inc.

Represented By
William H Brownstein

Eric A. Martin

Represented By
William H Brownstein

Glenn J. Chaffin

Represented By
William H Brownstein

Andrae Perez

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Accelerated Capital Group, Inc.

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Pro Se

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

Monday, February 1, 2021

Hearing Room 1545

9:00 AM

CONT... David MacMillan

Chapter 7

Plaintiff(s):

Rosendo Gonzalez

Represented By
James A Dumas Jr
Christian T Kim
Ann Chang

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr
Christian T Kim

Peter J Mastan (TR)

Pro Se

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

Monday, February 1, 2021

Hearing Room 1545

9:00 AM

2:16-21559 David MacMillan

Chapter 7

Adv#: 2:17-01545 Gonzalez v. Macmillan et al

#4.00 Hrg re: Motion for Admission of Excerpts from the Deposition
of Joseph Fleishon taken on January 25, 2019 in Support of Trial

Docket 203

***** VACATED *** REASON: See Stipulation for Entry of Judgment (adv.
dkt. 234)**

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Defendant(s):

David W. Macmillan

Represented By
Robert S Altagen

Cynthia B. Martin

Represented By
Robert S Altagen

Aston Business Solutions, Inc.

Represented By
William H Brownstein

Eric A. Martin

Represented By
William H Brownstein

Glenn J. Chaffin

Represented By
William H Brownstein

Andrae Perez

Pro Se

Accelerated Capital Group, Inc.

Pro Se

Does I through XX

Pro Se

Plaintiff(s):

Rosendo Gonzalez

Represented By

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

Monday, February 1, 2021

Hearing Room 1545

9:00 AM

CONT... David MacMillan

Chapter 7

James A Dumas Jr
Christian T Kim
Ann Chang

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr
Christian T Kim

Peter J Mastan (TR)

Pro Se

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

Monday, February 1, 2021

Hearing Room 1545

9:00 AM

2:16-21559 David MacMillan

Chapter 7

Adv#: 2:17-01545 Gonzalez v. Macmillan et al

#5.00 Hrg re: Motion for Admission of Excerpts from the Deposition
of Cynthia Barrett Martin taken on January 23, 2019 in Support of Trial

Docket 204

***** VACATED *** REASON: See Stipulation for Entry of Judgment (adv.
dkt. 234)**

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Defendant(s):

David W. Macmillan

Represented By
Robert S Altagen

Cynthia B. Martin

Represented By
Robert S Altagen

Aston Business Solutions, Inc.

Represented By
William H Brownstein

Eric A. Martin

Represented By
William H Brownstein

Glenn J. Chaffin

Represented By
William H Brownstein

Andrae Perez

Pro Se

Accelerated Capital Group, Inc.

Pro Se

Does I through XX

Pro Se

Plaintiff(s):

Rosendo Gonzalez

Represented By

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

Monday, February 1, 2021

Hearing Room 1545

9:00 AM

CONT... David MacMillan

Chapter 7

James A Dumas Jr
Christian T Kim
Ann Chang

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr
Christian T Kim

Peter J Mastan (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Monday, February 1, 2021

Hearing Room 1545

9:00 AM

2:16-21559 David MacMillan

Chapter 7

Adv#: 2:17-01545 Gonzalez v. Macmillan et al

#6.00 Hrg re: Motion for Admission of Excerpts from the Deposition of Erica Aston Chaffin taken on June 19, 2019 in Support of Trial

Docket 205

***** VACATED *** REASON: See Stipulation for Entry of Judgment (adv. dkt. 234)**

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Defendant(s):

David W. Macmillan

Represented By
Robert S Altagen

Cynthia B. Martin

Represented By
Robert S Altagen

Aston Business Solutions, Inc.

Represented By
William H Brownstein

Eric A. Martin

Represented By
William H Brownstein

Glenn J. Chaffin

Represented By
William H Brownstein

Andrae Perez

Pro Se

Accelerated Capital Group, Inc.

Pro Se

Does I through XX

Pro Se

Plaintiff(s):

Rosendo Gonzalez

Represented By

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

Monday, February 1, 2021

Hearing Room 1545

9:00 AM

CONT...

David MacMillan

Chapter 7

James A Dumas Jr
Christian T Kim
Ann Chang

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr
Christian T Kim

Peter J Mastan (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Monday, February 1, 2021

Hearing Room 1545

9:00 AM

2:16-21559 David MacMillan

Chapter 7

Adv#: 2:17-01545 Gonzalez v. Macmillan et al

#7.00 Hrg re: Motion for Admission of Excerpts from the Deposition
of Matt F. Stein taken on January 23, 2019 in Support of Trial

Docket 211

***** VACATED *** REASON: See Stipulation for Entry of Judgment (adv.
dkt. 234)**

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Defendant(s):

David W. Macmillan

Represented By
Robert S Altagen

Cynthia B. Martin

Represented By
Robert S Altagen

Aston Business Solutions, Inc.

Represented By
William H Brownstein

Eric A. Martin

Represented By
William H Brownstein

Glenn J. Chaffin

Represented By
William H Brownstein

Andrae Perez

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Accelerated Capital Group, Inc.

Pro Se

Does I through XX

Pro Se

Plaintiff(s):

Rosendo Gonzalez

Represented By

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

Monday, February 1, 2021

Hearing Room 1545

9:00 AM

CONT... David MacMillan

Chapter 7

James A Dumas Jr
Christian T Kim
Ann Chang

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr
Christian T Kim

Peter J Mastan (TR)

Pro Se

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

Monday, February 1, 2021

Hearing Room 1545

9:00 AM

2:16-21559 David MacMillan

Chapter 7

Adv#: 2:17-01545 Gonzalez v. Macmillan et al

#8.00 Hrg re: Motion for Admission of Excerpts from the Deposition of Glen Chaffin taken on January 24, 2019 in Support of Trial

Docket 214

***** VACATED *** REASON: See Stipulation for Entry of Judgment (adv. dkt. 234)**

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Defendant(s):

David W. Macmillan

Represented By
Robert S Altagen

Cynthia B. Martin

Represented By
Robert S Altagen

Aston Business Solutions, Inc.

Represented By
William H Brownstein

Eric A. Martin

Represented By
William H Brownstein

Glenn J. Chaffin

Represented By
William H Brownstein

Andrae Perez

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Accelerated Capital Group, Inc.

Pro Se

Does I through XX

Pro Se

Plaintiff(s):

Rosendo Gonzalez

Represented By

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

Monday, February 1, 2021

Hearing Room 1545

9:00 AM

CONT... David MacMillan

Chapter 7

James A Dumas Jr
Christian T Kim
Ann Chang

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr
Christian T Kim

Peter J Mastan (TR)

Pro Se

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

Monday, February 1, 2021

Hearing Room 1545

9:00 AM

2:16-21559 David MacMillan

Chapter 7

Adv#: 2:17-01545 Gonzalez v. Macmillan et al

#9.00 Hrg re: Motion for Admission of Excerpts from the Deposition
of Glen Chaffin Taken on February 21, 2019 in Support of Trial

Docket 215

***** VACATED *** REASON: See Stipulation for Entry of Judgment (adv.
dkt. 234)**

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Defendant(s):

David W. Macmillan

Represented By
Robert S Altagen

Cynthia B. Martin

Represented By
Robert S Altagen

Aston Business Solutions, Inc.

Represented By
William H Brownstein

Eric A. Martin

Represented By
William H Brownstein

Glenn J. Chaffin

Represented By
William H Brownstein

Andrae Perez

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Accelerated Capital Group, Inc.

Pro Se

Does I through XX

Pro Se

Plaintiff(s):

Rosendo Gonzalez

Represented By

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

Monday, February 1, 2021

Hearing Room 1545

9:00 AM

CONT... David MacMillan

Chapter 7

James A Dumas Jr
Christian T Kim
Ann Chang

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr
Christian T Kim

Peter J Mastan (TR)

Pro Se

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

Monday, February 1, 2021

Hearing Room 1545

9:00 AM

2:16-21559 David MacMillan

Chapter 7

Adv#: 2:17-01545 Gonzalez v. Macmillan et al

#10.00 Hrg re: Motion for Admission of Excerpts from the Deposition of Glen Chaffin taken on December 16, 2019 in Support of Trial

Docket 216

***** VACATED *** REASON: See Stipulation for Entry of Judgment (adv. dkt. 234)**

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Defendant(s):

David W. Macmillan

Represented By
Robert S Altagen

Cynthia B. Martin

Represented By
Robert S Altagen

Aston Business Solutions, Inc.

Represented By
William H Brownstein

Eric A. Martin

Represented By
William H Brownstein

Glenn J. Chaffin

Represented By
William H Brownstein

Andrae Perez

Pro Se

Accelerated Capital Group, Inc.

Pro Se

Does I through XX

Pro Se

Plaintiff(s):

Rosendo Gonzalez

Represented By

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

Monday, February 1, 2021

Hearing Room 1545

9:00 AM

CONT... David MacMillan

Chapter 7

James A Dumas Jr
Christian T Kim
Ann Chang

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr
Christian T Kim

Peter J Mastan (TR)

Pro Se

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

Monday, February 1, 2021

Hearing Room 1545

9:00 AM

2:16-21559 David MacMillan

Chapter 7

Adv#: 2:17-01545 Gonzalez v. Macmillan et al

#11.00 Hrg re: Motion for Admission of Excerpts from the Deposition
of Glen Chaffin Taken on May 18, 2020 in Support of Trial

Docket 217

***** VACATED *** REASON: See Stipulation for Entry of Judgment (adv.
dkt. 234)**

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Defendant(s):

David W. Macmillan

Represented By
Robert S Altagen

Cynthia B. Martin

Represented By
Robert S Altagen

Aston Business Solutions, Inc.

Represented By
William H Brownstein

Eric A. Martin

Represented By
William H Brownstein

Glenn J. Chaffin

Represented By
William H Brownstein

Andrae Perez

Pro Se

Accelerated Capital Group, Inc.

Pro Se

Does I through XX

Pro Se

Plaintiff(s):

Rosendo Gonzalez

Represented By

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

Monday, February 1, 2021

Hearing Room 1545

9:00 AM

CONT...

David MacMillan

Chapter 7

James A Dumas Jr
Christian T Kim
Ann Chang

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr
Christian T Kim

Peter J Mastan (TR)

Pro Se

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

Monday, February 1, 2021

Hearing Room 1545

9:00 AM

2:16-21559 David MacMillan

Chapter 7

Adv#: 2:17-01545 Gonzalez v. Macmillan et al

#12.00 Hrg re: Motion for Admission of Excerpts from the Deposition
of Cynthia Barrett Martin Taken on October 17, 2017 in Support
of Trial

Docket 218

***** VACATED *** REASON: See Stipulation for Entry of Judgment (adv.
dkt. 234)**

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Defendant(s):

David W. Macmillan

Represented By
Robert S Altagen

Cynthia B. Martin

Represented By
Robert S Altagen

Aston Business Solutions, Inc.

Represented By
William H Brownstein

Eric A. Martin

Represented By
William H Brownstein

Glenn J. Chaffin

Represented By
William H Brownstein

Andrae Perez

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Accelerated Capital Group, Inc.

Pro Se

Does I through XX

Pro Se

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

Monday, February 1, 2021

Hearing Room 1545

9:00 AM

CONT... David MacMillan

Chapter 7

Plaintiff(s):

Rosendo Gonzalez

Represented By
James A Dumas Jr
Christian T Kim
Ann Chang

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr
Christian T Kim

Peter J Mastan (TR)

Pro Se

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

Monday, February 1, 2021

Hearing Room 1545

9:00 AM

2:16-21559 David MacMillan

Chapter 7

Adv#: 2:17-01545 Gonzalez v. Macmillan et al

#13.00 Hrg re: Motion for Admission of Excerpts from the Deposition
of David Macmillan taken on October 2, 2014 in Support of Trial

Docket 219

***** VACATED *** REASON: See Stipulation for Entry of Judgment (adv.
dkt. 234)**

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Defendant(s):

David W. Macmillan

Represented By
Robert S Altagen

Cynthia B. Martin

Represented By
Robert S Altagen

Aston Business Solutions, Inc.

Represented By
William H Brownstein

Eric A. Martin

Represented By
William H Brownstein

Glenn J. Chaffin

Represented By
William H Brownstein

Andrae Perez

Pro Se

Accelerated Capital Group, Inc.

Pro Se

Does I through XX

Pro Se

Plaintiff(s):

Rosendo Gonzalez

Represented By

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

Monday, February 1, 2021

Hearing Room 1545

9:00 AM

CONT... David MacMillan

Chapter 7

James A Dumas Jr
Christian T Kim
Ann Chang

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr
Christian T Kim

Peter J Mastan (TR)

Pro Se

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

Monday, February 1, 2021

Hearing Room 1545

9:00 AM

2:16-21559 David MacMillan

Chapter 7

Adv#: 2:17-01545 Gonzalez v. Macmillan et al

#14.00 Hrg re: Motion for Admission of Excerpts from the Deposition of
David Macmillan taken on March 9, 2017 in Support of Trial

Docket 220

***** VACATED *** REASON: See Stipulation for Entry of Judgment (adv.
dkt. 234)**

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Defendant(s):

David W. Macmillan

Represented By
Robert S Altagen

Cynthia B. Martin

Represented By
Robert S Altagen

Aston Business Solutions, Inc.

Represented By
William H Brownstein

Eric A. Martin

Represented By
William H Brownstein

Glenn J. Chaffin

Represented By
William H Brownstein

Andrae Perez

Pro Se

Accelerated Capital Group, Inc.

Pro Se

Does I through XX

Pro Se

Plaintiff(s):

Rosendo Gonzalez

Represented By

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

Monday, February 1, 2021

Hearing Room 1545

9:00 AM

CONT...

David MacMillan

Chapter 7

James A Dumas Jr
Christian T Kim
Ann Chang

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr
Christian T Kim

Peter J Mastan (TR)

Pro Se

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

Monday, February 1, 2021

Hearing Room 1545

9:00 AM

2:16-21559 David MacMillan

Chapter 7

Adv#: 2:17-01545 Gonzalez v. Macmillan et al

#15.00 Hrg re: Motion for Admission of Excerpts from the Deposition
of David Macmillan taken on January 9, 2019 in Support of Trial

Docket 221

***** VACATED *** REASON: See Stipulation for Entry of Judgment (adv.
dkt. 234)**

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Defendant(s):

David W. Macmillan

Represented By
Robert S Altagen

Cynthia B. Martin

Represented By
Robert S Altagen

Aston Business Solutions, Inc.

Represented By
William H Brownstein

Eric A. Martin

Represented By
William H Brownstein

Glenn J. Chaffin

Represented By
William H Brownstein

Andrae Perez

Pro Se

Accelerated Capital Group, Inc.

Pro Se

Does I through XX

Pro Se

Plaintiff(s):

Rosendo Gonzalez

Represented By

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

Monday, February 1, 2021

Hearing Room 1545

9:00 AM

CONT... David MacMillan

Chapter 7

James A Dumas Jr
Christian T Kim
Ann Chang

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr
Christian T Kim

Peter J Mastan (TR)

Pro Se

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

Monday, February 1, 2021

Hearing Room 1545

9:00 AM

2:16-21559 David MacMillan

Chapter 7

Adv#: 2:17-01545 Gonzalez v. Macmillan et al

#16.00 Trial re: Complaint Objecting to Debtor's Discharge and for Fraudulent Transfer
fr. 1/23/18, 2/27/18, 03/06/18, 4/17/18, 6/12/18, 08/14/18, 10/9/18, 11/6/18, 12/11/18, 1/29/19, 2/26/19, 3/26/19, 04/09/19, 04/30/19, 5/7/19, 06/04/19, 7/2/19; 08/06/19, 8/20/19, 9/24/19, 11/12/19, 12/4/19, 12/17/19, 1/14/20, 01/28/20, 2/4/20, 2/18/20, 8/18/20, 9/1/20, 11/10/20, 12/1/20

Docket 1

***** VACATED *** REASON: See Stipulation for Entry of Judgment (adv. dkt. 234)**

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Defendant(s):

David W. Macmillan

Represented By
Robert S Altagen

Cynthia B. Martin

Represented By
Robert S Altagen

Aston Business Solutions, Inc.

Represented By
William H Brownstein

Eric A. Martin

Represented By
William H Brownstein

Glenn J. Chaffin

Represented By
William H Brownstein

Andrae Perez

Pro Se

Accelerated Capital Group, Inc.

Pro Se

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

Monday, February 1, 2021

Hearing Room 1545

9:00 AM

CONT... David MacMillan

Chapter 7

Does I through XX

Pro Se

Plaintiff(s):

Rosendo Gonzalez

Represented By
James A Dumas Jr
Christian T Kim

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr
Christian T Kim

Peter J Mastan (TR)

Pro Se

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

Monday, February 1, 2021

Hearing Room 1545

9:00 AM

2:16-21559 David MacMillan

Chapter 7

#17.00 Cont'd Status Conference re: Chapter 7 Case
fr. 4/9/19, 04/30/19, 05/21/19, 06/04/19, 7/2/19,
1/14/20, 01/28/20, 2/4/20, 02/18/20, 4/7/20,
5/19/20, 7/14/20, 7/28/20, 8/18/20, 9/1/20, 11/10/20,
12/1/20

Docket 332

***** VACATED *** REASON: See Stipulation for Entry of Judgment (adv.
dkt. 234)**

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr
Christian T Kim

Peter J Mastan (TR)

Pro Se

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

Thursday, February 4, 2021

Hearing Room 1545

2:00 PM

2:19-18316 Ashley Susan Aarons

Chapter 11

#1.00 Cont'd hrg re: U.S. Trustee's Motion to Dismiss or Convert Case
fr. 10/15/19, 10/29/19, 12/10/19, 1/14/20, 03/31/20, 4/7/20,
4/21/20, 5/5/20, 6/16/20, 6/30/20, 8/4/20, 9/29/20, 10/14/20,
10/23/20, 11/12/20, 12/8/20, 12/22/20, 1/5/21, 1/26/21

Docket 65

Tentative Ruling:

ZoomGov Instructions for all matters on today's calendar:

Meeting ID: 161 316 9720

Password: 953156

Meeting URL: <https://cacb.zoomgov.com/j/1613169720>

Telephone: +1 669-254-5252 or +1 646-828-7666 or 833-568-8864 (Toll Free)

Please connect at least 5 minutes before the start of your hearing, and wait with your microphone muted until your matter is called. You do not need to call Chambers for advance approval. ZoomGov appearances are free.

Tentative Ruling for 2/4/21:

Please see the tentative ruling for the status conference (Calendar No. 3, 2/4/21 at 2:00 p.m.).

Tentative Ruling for 1/26/21:

Please see the tentative ruling for the status conference (Calendar No. 13, 1/26/21 at 2:00 p.m.).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Ashley Susan Aarons

Represented By
James C Bastian Jr
Rika Kido

Movant(s):

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

Thursday, February 4, 2021

Hearing Room 1545

2:00 PM

CONT... **Ashley Susan Aarons**
United States Trustee (LA)

Represented By
Dare Law
Alvin Mar
Ron Maroko

Chapter 11

Trustee(s):

John-Patrick McGinnis Fritz (TR)

Pro Se

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

Thursday, February 4, 2021

Hearing Room 1545

2:00 PM

2:19-18316 Ashley Susan Aarons

Chapter 11

#2.00 Cont'd hrg re: Plan Confirmation and Related Deadlines
fr. 9/29/20, 10/14/20, 10/23/20, 11/12/20, 12/8/20, 12/22/20,
1/5/21, 1/26/21

Docket 313

Tentative Ruling:

Tentative Ruling for 2/4/21:

Please see the tentative ruling for the status conference (Calendar No. 3,
2/4/21 at 2:00 p.m.).

Tentative Ruling for 1/26/21:

Please see the tentative ruling for the status conference (Calendar No. 13,
1/26/21 at 2:00 p.m.).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Ashley Susan Aarons

Represented By
James C Bastian Jr
Rika Kido

Trustee(s):

John-Patrick McGinnis Fritz (TR)

Pro Se

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

Thursday, February 4, 2021

Hearing Room 1545

2:00 PM

2:19-18316 Ashley Susan Aarons

Chapter 11

#3.00 Cont'd status conference re: Chapter 11 Case
fr. 8/20/19, 9/24/19, 10/4/19, 10/15/19, 10/29/19,
11/12/19, 12/10/19, 1/14/20, 03/31/20, 4/7/20,
4/21/20, 5/5/20, 6/16/20, 6/30/20, 8/4/20, 9/29/20,
10/14/20, 10/22/20, 11/12/20, 12/8/20, 12/22/20,
1/5/21, 1/26/21

Docket 1

Tentative Ruling:

Tentative Ruling for 2/4/21:
Appearances required.

(1) Current issues

(a) Motion of the U.S. Trustee ("UST") to dismiss (dkt. 65, "MTD"), Debtor's opposition (dkt. 86), UST's reply (dkt. 168, 170), Debtor's response (dkt. 179), Debtor's status report (dkt. 180), stipulation and order re pre-petition bank account (dkt. 212, 221)

The outcome of this motion may depend on whether this Court confirms Debtor's amended plan.

(b) Debtor's Amended plan (dkt. 313) (see also Disclosure Statement, dkt. 311), order setting confirmation hearing (dkt. 317), proof of service of solicitation package (dkt. 324), Debtor's confirmation brief (dkt. 329), ballot summary (dkt. 330), objection of Post Acute Care Partners, Inc. ("Post") (dkt. 332), objection of Shiv Raj & Saroj Gupta ("Guptas") (dkt. 333), Debtor's Reply (dkt. 335), Debtor's supplemental brief (dkt. 369), Guptas' supplemental response (dkt. 372), supplemental response of Verus Securitization Trust 2020-NPL1 ("Verus"), as successor to Patch of Land et al. (dkt. 373), Debtor's supplemental reply (dkt. 374), Debtor's supplemental declarations (dkt. 375, 376)

There is no tentative ruling. The parties are directed to appear and address whether Debtor's supplemental declarations (dkt. 375, 276) provide sufficient evidence of feasibility, sufficient "new value" to satisfy the "new value corrolary" (aka "exception") to the absolute priority rule, good faith, and

**United States Bankruptcy Court
Central District of California
Los Angeles
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Thursday, February 4, 2021

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CONT... Ashley Susan Aarons

Chapter 11

the other elements required for confirmation (see prior tentative rulings, reproduced below, on those issues). Debtor should be prepared to provide an update on the status of the Florida receivership.

Regarding the "new value" issues, please note the following excerpt from the posted "Procedures of Judge Bason" (available at www.cacb.uscourts.gov):

§ 1129(b)(2)(B)(ii): absolute priority rule. The judge previously has made the following, both orally and in writing. *See In re Lytle* (Case No. 2:20-bk-12166-NB), dkt. 113. First, although this Court has an independent duty to examine the elements of cramdown under § 1129(a)(1) (*cf. United States v. Espinosa*, 130 S.Ct. 1367, 1378-80 (2010) (duty under parallel provisions of 11 U.S.C. 1325(a)(1))), a class of creditors can waive or forfeit the requirements of the absolute priority rule, so if there is no objection to confirmation and the plan meets the minimum requirements for cramdown then confirmation of the plan is appropriate. *Cf. In re Hamer*, 138 S.Ct. 13, 17 n.1 (2017) (distinguishing forfeiture and waiver); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (holding, in different context, that consent need not be express); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (same, and analyzing presumed consent). Second, when cramdown is required under § 1129(a)(10) & (b) it is subject to the "new value" "exception" (corrolary) to the absolute priority rule (typically an individual debtor would contribute cash from an exempt retirement account, or from a relative or friend). Third, new value must be (among other things) "reasonably equivalent to the value or interest received" (*In re Bonner Mall P'ship*, 2 F.3d 899, 908 (9th Cir. 1993) (citations omitted)) but by definition \$0 is "reasonably equivalent" to whatever residual value exists in *fully encumbered* property (which is what debtors often retain). Fourth, however, new value must be "necessary" and "substantial" (*id.*), which requires whatever cash is "necessary" to the success of the proposed reorganization, as opposed to a "token" cash

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CONT...

Ashley Susan Aarons

Chapter 11

infusion. *In re Snyder*, 967 F.2d 1126, 1131-32 (7th Cir. 1992) (cited in *Bonner Mall*, 2 F.3d at 908). When a debtor is devoting all or almost all disposable income to the plan then it may be "necessary" for feasibility (§ 1129(a)(11)) to have a cash infusion to cover the type of unanticipated emergency expenses that typically arise, and the judge has accepted this as "substantial" new value even if it does not increase the dividend to unsecured creditors. Note: the judge has questioned, but not ruled on, whether "bids or competing plans" are required, or what that would mean as applied to property that an individual debtor is entitled to exempt. *Compare Bank of Am. Nat. Trust and Sav. Assn. v. 203 North LaSalle St. P'ship*, 526 U.S. 434, 454-58 (1999) (limited partnership, not individual, bankruptcy case); *Zachary v. California Bank & Trust*, 811 F.3d 1191 (9th Cir. 2016) (individual case, but not addressing that issue). *See also In re Ambanc La Mesa L.P.*, 115 F.3d 650, 656-657 (9th Cir. 1997) (not deciding among various ways to measure if contribution is "substantial," but holding that \$32,000 contribution, less than 0.5% of unsecured debt, was *de minimus* as a matter of law). *See also In re Green Pharmaceuticals, Inc.*, 617 B.R. 131 (Bankr. C.D. Cal. 2020) (court may consider other circumstances, such as how much debtor is paying for insiders' auto and life insurance).

(3) Deadlines/dates. This case was filed on 7/17/19.

(a) Bar date: 12/20/19, dkt. 116 (timely served, dkt. 120)

(b) Procedures order: dkt.9 (timely served, dkt.18)

(c) AmPlan/AmDisclosure Statement*: See above.

(d) Continued status conference: If the disclosure statement is approved on a final basis, and if the plan is confirmed, then this Court anticipates setting a post-confirmation status conference for 4/6/21 at 2:00 p.m. On the other hand, if there are unresolved confirmation issues, this Court anticipates setting either a continued hearing/status conference and/or a further evidentiary hearing (at a date and time to be determined).

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

**United States Bankruptcy Court
Central District of California
Los Angeles
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Thursday, February 4, 2021

Hearing Room 1545

2:00 PM

CONT... Ashley Susan Aarons

Chapter 11

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 1/26/21:
Appearances required.

(1) Current issues

(a) Motion of the U.S. Trustee ("UST") to dismiss (dkt. 65, "MTD"), Debtor's opposition (dkt. 86), UST's reply (dkt. 168, 170), Debtor's response (dkt. 179), Debtor's status report (dkt. 180), stipulation and order re pre-petition bank account (dkt. 212, 221)

The outcome of this motion may depend on whether this Court confirms Debtor's amended plan.

(b) Debtor's Amended plan (dkt. 313) (see also Disclosure Statement, dkt. 311), order setting confirmation hearing (dkt. 317), proof of service of solicitation package (dkt. 324), Debtor's confirmation brief (dkt. 329), ballot summary (dkt. 330), objection of Post Acute Care Partners, Inc. ("Post") (dkt. 332), objection of Shiv Raj & Saroj Gupta ("Guptas") (dkt. 333), Debtor's Reply (dkt. 335), Debtor's supplemental brief (dkt. 369), Guptas' supplemental response (dkt. 372), supplemental response of Verus Securitization Trust 2020-NPL1 ("Verus"), as successor to Patch of Land et al. (dkt. 373), Debtor's supplemental reply (dkt. 374)

The tentative ruling is that if Debtor can provide evidence, or an offer of proof, regarding removal of the appraisal contingency on the JSS Financial refinancing (see dkt.374, p.5:5-7), the imminent payment of Verus, and the

**United States Bankruptcy Court
Central District of California
Los Angeles
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Thursday, February 4, 2021

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2:00 PM

CONT...

Ashley Susan Aarons

Chapter 11

alleged commitment of Janet Sexton to contribute \$45,000, then Debtor will have presented sufficient evidence of feasibility, sufficient "new value" to satisfy the "new value corollary" (aka "exception") to the absolute priority rule, good faith, and the other elements required for confirmation. Although some significant uncertainties remain, and although it is possible that nonpriority unsecured creditors would receive a greater recovery in some scenarios, it is more likely on the present record that they would receive less in most scenarios, and as a matter of law Debtor is only required to show that the plan's treatment of non-consenting impaired classes is "fair and equitable" and does not discriminate unfairly - not that the plan is the best of all possible outcomes.

(3) Deadlines/dates. This case was filed on 7/17/19.

(a) Bar date: 12/20/19, dkt. 116 (timely served, dkt. 120)

(b) Procedures order: dkt.9 (timely served, dkt.18)

(c) AmPlan/AmDisclosure Statement*: See above.

(d) Continued status conference: If there are unresolved confirmation issues, this Court anticipates setting either a continued hearing/status conference on 3/2/21 at 2:00 p.m. and/or a further evidentiary hearing (at a date and time to be determined).

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

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Thursday, February 4, 2021

Hearing Room 1545

2:00 PM

CONT...

Ashley Susan Aarons

Chapter 11

[Tentative Rulings omitted for 10/6/20 [continued per dkt. 339], 10/14/20, 10/22/20, 11/12/20, 12/8/20, 12/22/20 [continued with no change], and 1/5/21.]

**Tentative Ruling for 9/29/20:
Appearances required.**

(1) Current issues

(a) Motion of the U.S. Trustee ("UST") to dismiss (dkt. 65, "MTD"), debtor's opposition (dkt. 86), UST's reply (dkt. 168, 170), debtor's response (dkt. 179), debtor's status report (dkt. 180), stipulation and order re pre-petition bank account (dkt. 212, 221)

There is no tentative ruling. The outcome of this motion may depend on whether this Court confirms Debtor's amended plan.

(c) Debtor's Amended plan (dkt. 313) (see also Disclosure Statement, dkt. 311), order setting confirmation hearing (dkt. 317), proof of service of solicitation package (dkt. 324), Debtor's confirmation brief (dkt. 329), ballot summary (dkt. 330), objection of Post Acute Care Partners, Inc. ("Post") (dkt. 332), objection of Shiv Raj & Saroj Gupta ("Guptas") (dkt. 333), Debtor's Reply (dkt. 335)

The tentative ruling is that (x) Debtor has adequately addressed Post's objection; (y) Debtor has adequately addressed the non-materiality of her proposed minor modifications to the Plan (*i.e.*, re-balloting is not required); and (z) Debtor has provided sufficient arguments and evidence to overrule most of the Guptas' objections. The Guptas' objections that Debtor has not yet sufficiently addressed are explained below.

(A) Best Interest Test (11 U.S.C. 1129(a)(7)): Debtor's calculations require an adjustment, but even with an adjustment the Guptas have not rebutted Debtor's showing that the Plan satisfies the best interest test

The tentative ruling is that Debtor's alternative liquidation analysis (dkt.335, pp.11-12) should be adjusted to account for the possibility that the secured claim asserted by Patch Of Land ("Patch" or "POL") might be reduced to some extent, based on objections to default interest and other claims by the bankruptcy estate. But the tentative ruling - based on this Court's familiarity with numerous disputes in other cases regarding default

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

Thursday, February 4, 2021

Hearing Room 1545

2:00 PM

CONT...

Ashley Susan Aarons

Chapter 11

rates of interest and other charges - is that the possibility of such reduction, discounted to present value, is less than shortfall in funds that would be available in any hypothetical chapter 7 case. See Debtor's Reply (dkt.335), p.12. See generally, e.g., *East-West Bank v. Altadena Lincoln Crossing, LLC*, 598 B.R. 633 (C.D. Cal. 2019)

The tentative ruling is that a precise dollar estimate is not required because the shortfall is hundreds of thousands of dollars; the discount to Patch's claim would not be greater than that. In other words, even with the adjustment to Patch's claim as described above, there would be \$-0- for general unsecured creditors in a hypothetical chapter 7 case.

Alternatively, assuming for the sake of discussion that any adjustments to Debtor's liquidation analysis would be enough to provide any projected recovery for nonpriority unsecured creditors, that in itself does not establish that liquidation would be in the best interests of creditors. Rather, the issue would require further evidence because any such projected chapter 7 recovery still would have to exceed the projected recovery under Debtor's proposed Plan, and the latter requires more evidence (as noted below).

(B) Adequate means for implementation (11 U.S.C. 1123(a)(5)) and feasibility (11 U.S.C. 1129(a)(11))

Debtor is directed to address whether she has evidence of sufficient loan commitments and/or gift commitments from family and friends to make her proposed commitments in the Plan adequate and feasible. See, e.g., Debtor's Reply (dkt.335), p.14:2-8. The parties are directed to address whether any evidentiary hearing will be necessary to address the sufficiency of such evidence, and the possible scheduling of any such evidentiary hearing and any related matters.

(2) Deadlines/dates. This case was filed on 7/17/19.

(a) Bar date: 12/20/19, dkt. 116 (timely served, dkt. 120)

(b) Procedures order: dkt.9 (timely served, dkt.18)

(c) AmPlan/AmDisclosure Statement*: See above.

(d) Continued status conference: If there are unresolved confirmation issues, this Court anticipates setting either a continued hearing/status conference on 10/6/20 at 2:00 p.m. and/or an evidentiary hearing (at a date and time to be determined). Alternatively, if the Plan were to be confirmed at today's hearing,

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Thursday, February 4, 2021

Hearing Room 1545

2:00 PM

CONT...

Ashley Susan Aarons

Chapter 11

the tentative ruling would be to set a post-confirmation status conference for 1/12/21 at 2:00 p.m.

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

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, all appearances are telephonic via CourtCall at (888) 882-6878.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Ashley Susan Aarons

Represented By
James C Bastian Jr
Rika Kido

Trustee(s):

John-Patrick McGinnis Fritz (TR)

Pro Se

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

Monday, February 8, 2021

Hearing Room 1545

9:00 AM

2:16-17463 Gardens Regional Hospital and Medical Center, Inc.

Chapter 11

#1.00 Mediation hrg

Judge Robles Case to be heard by Judge Bason

Docket 0

***** VACATED *** REASON: Cont'd to 3/24/21 at 9:00 a.m.**

Party Information

Debtor(s):

Gardens Regional Hospital and

Represented By
Samuel R Maizel
John A Moe II

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

Tuesday, February 9, 2021

Hearing Room 1545

10:00 AM
2:00-00000

Chapter

#0.00 ZoomGov Instructions for all matters on today's calendar:

Meeting ID: 161 708 2697

Password: 421642

Meeting URL: <https://cacb.zoomgov.com/j/1617082697>

Telephone: +1 669 254 5252 or +1 646 828 7666 or 833 568 8864 (Toll Free)

Please connect at least 5 minutes before the start of your hearing, and wait with your microphone muted until your matter is called. You do not need to call Chambers for advance approval. ZoomGov appearances are free.

Docket 0

Tentative Ruling:

- NONE LISTED -

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

Tuesday, February 9, 2021

Hearing Room 1545

10:00 AM

2:19-11401 Luis Molina and Ana Molina

Chapter 13

#1.00 **[CASE DISMISSED ON 1/28/21]**

Hrg re: Motion for relief from stay [RP]

U.S. BANK TRUST NATIONAL ASSOC
vs
DEBTOR

Docket 58

Tentative Ruling:

Appearances are not required.
Grant as set forth below.

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

The automatic stay does not apply

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

In the alternative and in addition, the tentative ruling is to grant relief from the automatic stay as follows.

Note regarding mootness: Judge Bason's standard tentative ruling is as follows. For three reasons the above tentative ruling that there *is no stay* does not moot requests for relief from whatever stay might apply. First, such *alternative* rulings are appropriate because (i) the very nature of *tentative* rulings is that this Court could be persuaded to depart from any one of them, and (ii) a *final* ruling on any one issue could be reversed on appeal. Second, even if there is currently no stay, that could change - e.g., if there is no stay because of dismissal of this bankruptcy case, such dismissal could be vacated and that might reimpose the stay even if there is a lack of adequate protection, or other grounds why the stay should not apply, and therefore the movant will suffer cognizable harm unless the issues are addressed now

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Tuesday, February 9, 2021

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10:00 AM

CONT... **Luis Molina and Ana Molina**

Chapter 13

(Judge Bason regularly vacates dismissals based on stipulations or other good cause). Third, if the motion includes any request for relief as to *past* acts (annulment) or *future* cases (*in rem* relief), those things are still at issue even if there is no *current* automatic stay. See *In re Aheong*, 276 B.R. 233 (9th Cir. BAP 2002). For all of these reasons, the tentative ruling is that it is appropriate to address the following issues.

Termination

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

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

Effective date of relief

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

Co-debtor stay

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

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

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

Tuesday, February 9, 2021

Hearing Room 1545

10:00 AM

CONT... Luis Molina and Ana Molina

Chapter 13

Debtor(s):

Luis Molina

Represented By
Rebecca Tomilowitz

Joint Debtor(s):

Ana Molina

Represented By
Rebecca Tomilowitz

Movant(s):

U.S. Bank Trust National

Represented By
Lemuel Bryant Jaquez
Erica T Loftis Pacheco

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Tuesday, February 9, 2021

Hearing Room 1545

10:00 AM

2:20-14849 Jewellean Knowles

Chapter 13

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

MISSION HEN LLC
vs
DEBTOR

Docket 41

Tentative Ruling:

Appearances required.

There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 44).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Jewellean Knowles

Represented By
Jaime A Cuevas Jr.

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

Tuesday, February 9, 2021

Hearing Room 1545

10:00 AM

CONT... Jewellean Knowles

Chapter 13

Movant(s):

Mission Hen LLC

Represented By
Daniel K Fujimoto
Caren J Castle

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Tuesday, February 9, 2021

Hearing Room 1545

10:00 AM

2:21-10042 Jannie T. Murillo

Chapter 7

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

GERALD W. PIRKL
NINA ENGRACAI PIRKL
vs
DEBTOR

Docket 9

Tentative Ruling:

Appearances are not required.

Grant as set forth below.

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

The automatic stay does not apply

Grant the motion under 11 U.S.C. 362(c)(4) and (j): there is no automatic stay because (a) Debtor's prior cases (#2:20-bk-14575-NB and 2:20-bk-20747-NB) were dismissed (on 10/27/20 and 12/28/20) within one year before this case was filed (on 1/5/21), (b) that dismissal was not under 11 U.S.C. 707(b), and (c) no finding of good faith was timely sought and obtained. The automatic stay did not go into effect upon the filing of this case, both as to Debtor *in personam* and as to property of Debtor.

In the alternative and in addition, the tentative ruling is to grant relief from the automatic stay as follows.

Note regarding mootness: Judge Bason's standard tentative ruling is as follows. For three reasons the above tentative ruling that there *is no stay* does not moot requests for relief from whatever stay might apply. First, such *alternative* rulings are appropriate because (i) the very nature of *tentative* rulings is that this Court could be persuaded to depart from any one of them,

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, February 9, 2021

Hearing Room 1545

10:00 AM

CONT...

Jannie T. Murillo

Chapter 7

and (ii) a *final* ruling on any one issue could be reversed on appeal. Second, even if there is currently no stay, that could change - e.g., if there is no stay because of dismissal of this bankruptcy case, such dismissal could be vacated and that might reimpose the stay even if there is a lack of adequate protection, or other grounds why the stay should not apply, and therefore the movant will suffer cognizable harm unless the issues are addressed now (Judge Bason regularly vacates dismissals based on stipulations or other good cause). Third, if the motion includes any request for relief as to *past* acts (annulment) or *future* cases (*in rem* relief), those things are still at issue even if there is no *current* automatic stay. See *In re Aheong*, 276 B.R. 233 (9th Cir. BAP 2002). For all of these reasons, the tentative ruling is that it is appropriate to address the following issues.

Termination

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

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

Relief notwithstanding future bankruptcy cases.

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

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

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

Debtor's involvement

It appears clear from the motion that it is asserting that Debtor was engaged in the "scheme" to delay, hinder, or defraud creditors within the meaning of 11 U.S.C. 362(d)(4). The motion does not allege any transfer of

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Central District of California
Los Angeles
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Tuesday, February 9, 2021

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CONT... **Jannie T. Murillo**

Chapter 7

the subject property, so this cannot be a "hijacking" case; and, as stated in the motion, Debtor was the debtor in all three cases and has not denied claiming an interest in the subject property. Therefore this Court's order will state that the Court finds that Debtor was involved in the "scheme" referenced in section 362(d)(4).

Effective date of relief

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

Co-debtor stay

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

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Jannie T. Murillo

Represented By
Chirnese L Liverpool

Movant(s):

Gerald W. Pirkl and Nina Engracia

Represented By
Edward T Weber

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

Tuesday, February 9, 2021

Hearing Room 1545

10:00 AM

CONT... Jannie T. Murillo

Chapter 7

Trustee(s):

Sam S Leslie (TR)

Pro Se

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

Tuesday, February 9, 2021

Hearing Room 1545

10:00 AM

2:20-13424 Gretchen D Zalamea

Chapter 13

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

FIRST INVESTORS FINANCIAL SERVICES
VS
DEBTOR

Docket 51

Tentative Ruling:

Appearances required.

There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 55).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Gretchen D Zalamea

Represented By
Jaime G Monteclaro

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

Tuesday, February 9, 2021

Hearing Room 1545

10:00 AM

CONT... Gretchen D Zalamea

Chapter 13

Movant(s):

First Investors Financial Services

Represented By
Sheryl K Ith

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Tuesday, February 9, 2021

Hearing Room 1545

10:00 AM

2:20-10713 Antonio G Campos and Sandra P Campos-Perez

Chapter 13

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

NISSAN-INFINITI LT
vs
DEBTOR

Docket 31

Tentative Ruling:

Appearances are not required.

Grant as set forth below.

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

Termination

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

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

Effective date of relief

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

Co-debtor stay

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

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

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

Tuesday, February 9, 2021

Hearing Room 1545

10:00 AM

CONT... **Antonio G Campos and Sandra P Campos-Perez** **Chapter 13**

by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Antonio G Campos

Represented By
Stephen S Smyth

Joint Debtor(s):

Sandra P Campos-Perez

Represented By
Stephen S Smyth

Movant(s):

Nissan-Infiniti LT, as serviced by

Represented By
Kirsten Martinez

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Tuesday, February 9, 2021

Hearing Room 1545

10:00 AM

2:20-20440 Ofelia Reyes Fuentesbella

Chapter 7

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

SANTANDER CONSUMER USA INC.
vs
DEBTOR

Docket 8

Tentative Ruling:

Appearances are not required.

Grant.

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

Termination

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

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

Effective date of relief

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

Co-debtor stay

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

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

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Los Angeles
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Tuesday, February 9, 2021

Hearing Room 1545

10:00 AM

CONT... Ofelia Reyes Fuentesbella

Chapter 7

are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Ofelia Reyes Fuentesbella

Pro Se

Movant(s):

Santander Consumer USA Inc.

Represented By
Sheryl K Ith

Trustee(s):

John P Pringle (TR)

Pro Se

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

Tuesday, February 9, 2021

Hearing Room 1545

10:00 AM

2:21-10292 Juan Herrera

Chapter 13

#7.00 Hrg re: Motion in Individual Case for Order
Imposing a Stay or Continuing the Automatic
Stay as the Court Deems Appropriate

Docket 8

Tentative Ruling:

Appearances are not required.

Grant, subject to the following conditions.

After the hearing date this Court will prepare an order and the tentative ruling is to include the following language in that order:

The stay of 11 U.S.C. 362(a) applies subject to the following modifications and conditions:

(1) Service and reconsideration. Any party in interest who was not timely served in accordance with FRBP 7004 (incorporated by FRBP 9014(b)) is hereby granted through 14 days after proper service to seek reconsideration, including retroactive relief (under FRBP 9023 and/or 9024). Any such person (a) may set a hearing on 14 days' notice, (b) may appear by telephone (if arrangements are made per Judge Bason's posted procedures), and (c) may present all arguments orally at the hearing (*i.e.*, no written argument is required). If written arguments appear necessary then this court will set a briefing schedule at the hearing.

(2) Reasons. (a) It appears appropriate to impose the automatic stay, and to impose it as to all persons rather than just as to selected persons, because one purpose of the automatic stay is to preventing a "race to collect" that could unfairly advantage some creditors at the expense of others. (b) To prevent possible abuse, this Court provides the foregoing simple process for reconsideration.

(3) Very limited ruling. This Court's tentative ruling to grant the foregoing relief is solely for purposes of this motion, and is not intended to have any binding effect with respect to any future

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, February 9, 2021

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10:00 AM

CONT...

Juan Herrera

Chapter 13

assertions by any party in interest regarding the existence or lack of
existence of good faith in any other context.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Juan Herrera

Represented By
Jaime A Cuevas Jr.

Movant(s):

Juan Herrera

Represented By
Jaime A Cuevas Jr.

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Tuesday, February 9, 2021

Hearing Room 1545

10:00 AM

2:21-10368 Mrudula Kothari

Chapter 11

#8.00 Hrg re: Motion in Individual Case for Order
Imposing a Stay or Continuing the Automatic
Stay as the Court Deems Appropriate

Docket 16

***** VACATED *** REASON: This matter is scheduled to be heard at a
different time. See #3 at 1:00 p.m.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Mrudula Kothari

Represented By
Stella A Havkin

Movant(s):

Mrudula Kothari

Represented By
Stella A Havkin
Stella A Havkin
Stella A Havkin
Stella A Havkin

Trustee(s):

Susan K Seflin (TR)

Pro Se

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

Tuesday, February 9, 2021

Hearing Room 1545

10:00 AM

2:19-22867 Frederick A. Cordova

Chapter 13

#9.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 1/12/21

HOMEBRIDGE FINANCIAL SERVICES, INC.
VS
DEBTOR

Docket 25

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

Tentative Ruling:

Party Information

Debtor(s):

Frederick A. Cordova

Represented By
W. Derek May

Movant(s):

HomeBridge Financial Services, Inc.

Represented By
Diana Torres-Brito

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Tuesday, February 9, 2021

Hearing Room 1545

10:00 AM

2:19-24202 Olivia Pino

Chapter 13

#10.00 Cont'd hrg re: Motion for relief from stay [PP]
fr. 12/1/20

ALLY FINANCIAL
vs
DEBTOR

Docket 29

Tentative Ruling:

**Tentative Ruling for 2/9/21:
Appearances required.**

Based on the arguments and representations of the parties at the hearing on 12/1/20, this Court continued the matter to this date to allow time for the parties to negotiate the terms of an adequate protection order. There is no tentative ruling, but the parties should be prepared to provide an update on the status of those negotiations.

This Court also directed Movant to give notice of the continued hearing by no later than 12/18/20, but as of the preparation of this tentative ruling no notice is on file. Why not?

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, February 9, 2021

Hearing Room 1545

10:00 AM

CONT... Olivia Pino

Chapter 13

Tentative Ruling for 12/1/20:
Appearances are not required.

Grant as set forth below.

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

Termination

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

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

Co-debtor stay

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

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Olivia Pino

Represented By
James D. Hornbuckle

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, February 9, 2021

Hearing Room 1545

10:00 AM

CONT... Olivia Pino

Chapter 13

Movant(s):

Ally Financial

Represented By
Sean C Ferry

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Tuesday, February 9, 2021

Hearing Room 1545

10:00 AM

2:19-25218 Katrina Moss

Chapter 13

#11.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 10/27/20, 12/1/20, 1/12/21

MEB LOAN TRUST IV
VS
DEBTOR

Docket 32

*** VACATED *** REASON: APO

Tentative Ruling:

Party Information

Debtor(s):

Katrina Moss

Represented By
Barry E Borowitz

Movant(s):

MEB Loan Trust IV, as serviced by

Represented By
Austin P Nagel

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, February 9, 2021

Hearing Room 1545

10:00 AM

2:20-10995 Victoria Marina Almaraz

Chapter 13

#12.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 12/1/20

THE BANK OF NEW YORK MELLO TRUST CO
VS
DEBTOR

Docket 40

Tentative Ruling:

Tentative Ruling for 2/9/21:
Appearances required.

At the 12/1/20 hearing, this Court was persuaded to continue the hearing to allow the parties an opportunity to negotiate the terms of an adequate protection order. There is no tentative ruling, but the parties should be prepared to discuss the status of these negotiations.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 12/1/20:
Appearances required.

There is no tentative ruling, but the parties should be prepared to address (a)

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Tuesday, February 9, 2021

Hearing Room 1545

10:00 AM

CONT... **Victoria Marina Almaraz**

Chapter 13

whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 44 - erroneously linked on the docket to a different motion).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Victoria Marina Almaraz

Represented By
Thomas B Ure

Movant(s):

The Bank of New York Mellon Trust

Represented By
Sean C Ferry

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Tuesday, February 9, 2021

Hearing Room 1545

10:00 AM

2:20-12318 Kelly L. Norris

Chapter 13

#13.00 Cont'd hrg re: Motion for relief from stay [PP]
fr. 1/5/21

WHEELS FINANCIAL GROUP, LLC
vs
DEBTOR

Docket 25

Tentative Ruling:

Tentative Ruling for 2/9/21:

Appearances are not required.

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

The automatic stay does not apply

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

In the alternative and in addition, the tentative ruling is to grant relief from the automatic stay as follows.

Note regarding mootness: Judge Bason's standard tentative ruling is as follows. For three reasons the above tentative ruling that there *is no stay* does not moot requests for relief from whatever stay might apply. First, such *alternative* rulings are appropriate because (i) the very nature of *tentative* rulings is that this Court could be persuaded to depart from any one of them, and (ii) a *final* ruling on any one issue could be reversed on appeal. Second, even if there is currently no stay, that could change - e.g., if there is no stay because of dismissal of this bankruptcy case, such dismissal could be vacated and that might reimpose the stay even if there is a lack of adequate protection, or other grounds why the stay should not apply, and therefore the movant will suffer cognizable harm unless the issues are addressed now

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

Tuesday, February 9, 2021

Hearing Room 1545

10:00 AM

CONT... Kelly L. Norris

Chapter 13

(Judge Bason regularly vacates dismissals based on stipulations or other good cause). Third, if the motion includes any request for relief as to *past* acts (annulment) or *future* cases (*in rem* relief), those things are still at issue even if there is no *current* automatic stay. See *In re Aheong*, 276 B.R. 233 (9th Cir. BAP 2002). For all of these reasons, the tentative ruling is that it is appropriate to address the following issues.

Termination

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

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

Effective date of relief

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

Co-debtor stay

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

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 1/5/21:
Appearances are not required.

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10:00 AM

CONT... Kelly L. Norris

Chapter 13

Grant.

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

Termination

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

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

Effective date of relief

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

Co-debtor stay

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

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Kelly L. Norris

Represented By

**United States Bankruptcy Court
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Los Angeles
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10:00 AM

CONT... Kelly L. Norris

James D. Hornbuckle

Chapter 13

Movant(s):

WHEELS FINANCIAL GROUP,

Represented By
Sheryl D Noel

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

10:00 AM

2:20-15698 Gerald Edward Young

Chapter 13

#14.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 12/22/20

U.S. BANK NATIONAL ASSOCIATION
VS
DEBTOR

Docket 44

*** VACATED *** REASON: APO

Tentative Ruling:

Party Information

Debtor(s):

Gerald Edward Young

Represented By
Erika Luna

Movant(s):

U.S Bank National Association

Represented By
Sean C Ferry

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, February 9, 2021

Hearing Room 1545

10:00 AM

2:20-17672 Liberos LLC

Chapter 7

#15.00 Cont'd hrg re: Motion for relief from stay [NA]
fr. 12/8/20

ALEXANDER RHODES
vs
DEBTOR

Docket 16

Tentative Ruling:

Tentative Ruling for 2/9/21:

Continue to 3/2/21 at 11:00 a.m. for the reasons set forth below.

Appearances are not required on 2/9/21.

The parties have filed a stipulation (dkt. 24) continuing the hearing set for 2/9/21 to 3/2/21 because the parties are scheduled to proceed with mediation on 2/9/21. The tentative ruling is to continue this matter to the date and time set forth above.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 12/8/20:

Order mandatory mediation. Appearances required by Movant and (subject to any reservation of rights regarding service) by Debtor.

**United States Bankruptcy Court
Central District of California
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Judge Neil Bason, Presiding
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Tuesday, February 9, 2021

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10:00 AM

CONT... Libereros LLC

Chapter 7

The tentative ruling is to order mandatory mediation for the reasons stated in calendar no. 4 (12/8/20 at 10:00 a.m.). Meanwhile, the tentative ruling is to order a continuance to **2/9/21 at 10:00 a.m.**, with a **deadline of 12/22/20** to lodge a proposed order appointing a mediator and directing the parties to mediation, and a **deadline of 12/15/20** to correct the following issue regarding service.

Service

The proof of service does not show service on both (i) Debtor's counsel and (ii) Debtor itself ("double service"), as required by Rules 7004(b)(9)&(g) and 9014(a), Fed. R. Bankr. P.). The tentative ruling is that this Court has neither the authority nor the inclination to excuse non-compliance with these rules. It is true that this double service requirement is the exact opposite of typical non-bankruptcy practice, in which it is generally impermissible to serve a represented party personally; but there are good reasons for the double service rule in bankruptcy. It helps protect Debtor and the bankruptcy estate (*i.e.*, all parties in interest) from matters "falling through the cracks" given the high volume and speed of matters in typical bankruptcy cases, and the frequent use of service via U.S. mail.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Libereros LLC

Represented By

**United States Bankruptcy Court
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CONT... Liberors LLC

Chapter 7

Michael Jay Berger

Movant(s):

Alexander Rhodes

Represented By
Carl Mueller

Trustee(s):

Elissa Miller (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, February 9, 2021

Hearing Room 1545

10:00 AM

2:20-17800 Ana Maria Ahmad

Chapter 13

#16.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 12/8/20, 1/12/21

KESWICK FINANCIAL GROUP, INC.
vs
DEBTOR

Docket 22

Tentative Ruling:

Tentative Ruling for 2/9/21 (same as for 1/12/21):
Appearances required.

Based on the arguments and representations of the parties at the hearing on 12/8/20, this Court continued this matter to this date to allow time for the parties to continue negotiating the terms of an adequate protection stipulation. There is no tentative ruling, but the parties should be prepared to update this Court on the status of those negotiations (if any).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 12/8/20:
Appearances required.

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Central District of California
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CONT... Ana Maria Ahmad

Chapter 13

There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 29).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Ana Maria Ahmad

Represented By
Rabin J Pournazarian

Movant(s):

Keswick Financial Group, Inc.

Represented By
Arnold L Graff

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

10:00 AM

2:20-17525 Nicole R. Prause

Chapter 7

#17.00 Cont'd hrg re: Motion for relief from stay [NA]
fr. 12/8/20

AARON M. MINC
vs
DEBTOR

Docket 20

Tentative Ruling:

Tentative Ruling for 2/9/21:

Continue to 3/2/21 at 11:00 a.m. for the reasons set forth below.

Appearances are not required on 2/9/21.

(1) Mandatory Mediation

At the 12/8/20 hearing, this Court ordered mandatory mediation and continued the hearing to 2/9/21. The Court has been informed that that mediation is scheduled for 2/9/21. See dkt. 65. The tentative ruling is to continue this matter to the date and time set forth above to be heard contemporaneously with the other matters ordered to mediation.

(2) Service

Debtor has filed an opposition to the motion for relief from automatic stay. Dkt. 60. The proof of service included with the opposition is blank (dkt. 60, PDF p. 4) and movant does not appear on the list of recipients of electronic notice. The tentative ruling is that Debtor must properly serve movant with the opposition, if she has not done so already, and to file with the Court a completed proof of service no later than **February 16, 2021**.

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

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CONT... Nicole R. Prause

Chapter 7

appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 12/8/20:

Order mandatory mediation. Appearances required by Movant and (subject to any reservation of rights regarding service) by Debtor.

The tentative ruling is to order mandatory mediation for the reasons stated in calendar no. 4 (12/8/20 at 10:00 a.m.). Meanwhile, the tentative ruling is to order a continuance to **2/9/21 at 10:00 a.m.**, with a **deadline of 12/22/20** to lodge a proposed order appointing a mediator and directing the parties to mediation, and a **deadline of 12/15/20** to correct the following issue regarding service.

Service

The proof of service does not show service on both (i) Debtor's counsel and (ii) Debtor individually ("double service"), as required by Rules 7004(b)(9)&(g) and 9014(a), Fed. R. Bankr. P.). Although the proof of service (dkt. 25) lists Debtor's name, the corresponding address does not match the Debtor's mailing address. The tentative ruling is that this Court has neither the authority nor the inclination to excuse non-compliance with these rules. It is true that this double service requirement is the exact opposite of typical non-bankruptcy practice, in which it is generally impermissible to serve a represented party personally; but there are good reasons for the double service rule in bankruptcy. It helps protect Debtor and the bankruptcy estate (*i.e.*, all parties in interest) from matters "falling through the cracks" given the high volume and speed of matters in typical bankruptcy cases, and the frequent use of service via U.S. mail.

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

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CONT... **Nicole R. Prause**

Chapter 7

are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Nicole R. Prause

Represented By
Michael Jay Berger

Movant(s):

Aaron M Minc

Pro Se

Trustee(s):

Elissa Miller (TR)

Pro Se

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

2:20-17525 Nicole R. Prause

Chapter 7

#18.00 Cont'd hrg re: Motion for relief from stay [NA]
fr. 12/8/20

ALEXANDER RHODES
VS
DEBTOR

Docket 26

***** VACATED *** REASON: Continue to 3/2/21 at 11:00 a.m. per
stipulation (dkt. 65).**

Tentative Ruling:

Party Information

Debtor(s):

Nicole R. Prause

Represented By
Michael Jay Berger

Movant(s):

Alexander Rhodes

Represented By
Carl Mueller

Trustee(s):

Elissa Miller (TR)

Pro Se

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

2:20-17525 Nicole R. Prause

Chapter 7

#19.00 Cont'd hrg re: Motion for relief from stay [NA]
fr. 1/5/21

DONALD L. HILTON, JR.
VS
DEBTOR

Docket 32

***** VACATED *** REASON: This matter is scheduled to be heard on
03/02/21 at 10:00 a.m. per parties' Stipulation (dkt. 57)**

Tentative Ruling:

Party Information

Debtor(s):

Nicole R. Prause

Represented By
Michael Jay Berger

Movant(s):

Donald L. Hilton, Jr.

Represented By
Jeffrey J Hagen

Trustee(s):

Elissa Miller (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Courtroom 1545 Calendar**

Tuesday, February 9, 2021

Hearing Room 1545

10:00 AM

2:20-17525 Nicole R. Prause

Chapter 7

Adv#: 2:20-01662 Minc v. Prause

#20.00 Cont'd hrg re: Motion to Stay the Adversary Proceeding
fr. 12/8/20

Docket 3

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 21,
2/9/21 at 10:00 a.m.).

Party Information

Debtor(s):

Nicole R. Prause

Represented By
Michael Jay Berger

Defendant(s):

Nicole R. Prause

Represented By
Michael Jay Berger

Movant(s):

Aaron M Minc

Pro Se

Plaintiff(s):

Aaron M Minc

Pro Se

Trustee(s):

Elissa Miller (TR)

Pro Se

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

Tuesday, February 9, 2021

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10:00 AM

2:20-17525 Nicole R. Prause

Chapter 7

Adv#: 2:20-01662 Minc v. Prause

#21.00 Cont'd status conference re: Complaint for monetary and equitable relief and demand for a jury trial fr. 01/26/21

Docket 1

Tentative Ruling:

Tentative Ruling for 2/9/21:

Continue to 3/2/21 at 11:00 a.m. for the reasons set forth below.

Appearances are not required on 2/9/21.

At the 12/8/20 hearing, this Court stayed this adversary proceeding and continued the status conference concurrent with the date of the related motions for relief from the automatic stay in the lead bankruptcy case. Those motions were continued to 2/9/21 and are being further continued. The tentative ruling is to continue this matter to the date and time set forth above to be heard contemporaneously with those motions.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 12/8/20:

Grant in part and continue in part, as provided below. Appearances are not required on 12/8/20.

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10:00 AM

CONT... Nicole R. Prause

Chapter 7

The tentative ruling is to stay this adversary proceeding until further order of this Court, and hold a continued status conference concurrent with whatever date is selected for the related motions for relief from the automatic stay (see calendar nos. 3-5, 12/8/20 at 10:00 a.m.).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Nicole R. Prause

Represented By
Michael Jay Berger

Defendant(s):

Nicole R. Prause

Represented By
Michael Jay Berger

Plaintiff(s):

Aaron M Mine

Pro Se

Trustee(s):

Elissa Miller (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, February 9, 2021

Hearing Room 1545

10:00 AM

2:20-15207 Nora Alicia Saenz

Chapter 13

#22.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 1/26/21

U.S. BANK, NATIONAL ASSOC
vs
DEBTOR

Docket 54

Tentative Ruling:

Tentative Ruling for 2/9/21:
Appearances required.

There is no tentative ruling, but the parties should be prepared to address (a) whether Debtor has complied with the interim adequate protection order (dkt. 61), (b) whether the remaining alleged arrears have been brought current, and/or (c) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 56)

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 1/26/21:
Appearances required.

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10:00 AM

CONT... Nora Alicia Saenz

Chapter 13

There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 56).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Nora Alicia Saenz

Represented By
Jaime A Cuevas Jr.

Movant(s):

U.S. Bank, National Association as

Represented By
Diane Weifenbach

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, February 9, 2021

Hearing Room 1545

10:00 AM

2:20-19479 Armenuhi Matevosian

Chapter 13

#23.00 Cont'd hrg re: Motion for relief from stay [RP]
[1349 N. Columbus Ave Unit 2 Glendale, CA 91202]
fr. 1/26/21

PS FUNDING, INC.
vs
DEBTOR

Docket 33

Tentative Ruling:

Tentative Ruling for 2/9/21:
Appearances required.

(1) Background

At the hearing on 12/22/20 this Court ordered Debtor, no later than 1/12/21, to make adequate protection payments equal to the regular payments due for December and January for three properties. The combined monthly dollar amount for each property is set forth in dkt.50.

But, as of the hearing on 1/26/21, Debtor had made only one such payment. Although Debtor sought a further (very brief) extension of time, this Court was not persuaded that Debtor's promise of a belated payment two weeks after the deadline (and much longer after the postpetition payments were due) would constitute "adequate" protection as required by 11 U.S.C. 362(d)(1). Alternatively, as to two of the properties, this Court was not persuaded that Debtor had any equity in those properties or that Debtor's hopes of potential contributions from family members or from her Mendez investment were sufficient to establish that either property was necessary for an effective reorganization (11 U.S.C. 362(d)(2)).

Therefore this Court was persuaded to grant relief as to two of the three properties (because the payment that was actually made would only cover one of the three properties). This Court set a deadline for Debtor to elect the property to which the payment would be applied. Debtor elected this Columbus Avenue property.

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CONT... Armenuhi Matevosian

Chapter 13

(2) Current issues

There is no tentative ruling, but the parties should be prepared to address whether they will agree to the terms of an adequate protection order as to this Columbus Avenue property.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 1/26/21:

Appearances required. See tentative ruling for calendar no. 1 (1/26/21 at 10:00 a.m.).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 12/22/20:

Appearances are not required.

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Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, February 9, 2021

Hearing Room 1545

10:00 AM

CONT... Armenuhi Matevosian

Chapter 13

Grant as set forth below.

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

Termination

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

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

Effective date of relief

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

Co-debtor stay

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

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Armenuhi Matevosian

Represented By

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

Tuesday, February 9, 2021

Hearing Room 1545

10:00 AM

CONT... Armenuhi Matevosian

Chapter 13

Dana M Douglas

Movant(s):

PS Funding, Inc.

Represented By
Andrew Still
Eric S Pezold

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Tuesday, February 9, 2021

Hearing Room 1545

10:00 AM

2:20-19479 Armenuhi Matevosian

Chapter 13

#24.00 Cont'd hrg re: Motion for relief from stay [RP]
[424 Oak Street, Unit 322, Glendale, CA 91204]
fr. 1/26/21

PS FUNDING, INC.
vs
DEBTOR

Docket 31

***** VACATED *** REASON: Order granting motion (dkt. 70).**

Tentative Ruling:

Party Information

Debtor(s):

Armenuhi Matevosian

Represented By
Dana M Douglas

Movant(s):

PS Funding, Inc.

Represented By
Andrew Still
Eric S Pezold

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Tuesday, February 9, 2021

Hearing Room 1545

10:00 AM

2:20-19479 Armenuhi Matevosian

Chapter 13

#25.00 Cont'd hrg re: Motion for relief from stay [RP]
[121 Sinclair Ave. Unit 245 Glendale, CA 91206]
fr. 1/26/21

PS FUNDING, INC.
vs
DEBTOR

Docket 32

***** VACATED *** REASON: Order granting motion (dkt. 71).**

Tentative Ruling:

Party Information

Debtor(s):

Armenuhi Matevosian

Represented By
Dana M Douglas

Movant(s):

PS Funding, Inc., master servicing

Represented By
Andrew Still

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Tuesday, February 9, 2021

Hearing Room 1545

11:00 AM

2:20-17525 Nicole R. Prause

Chapter 7

Adv#: 2:20-01663 Rhodes v. Prause

#1.00 Cont'd status conference re: First amended complaint by
to determine nondischargeability of debt pursuant
to 11 U.S.C. section 523(a)(6)
fr. 1/26/21

Docket 2

***** VACATED *** REASON: Continued to 3/2 per stipulation (dkt. 9) and
order thereon**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Nicole R. Prause

Represented By
Michael Jay Berger

Defendant(s):

Nicole R. Prause

Pro Se

Plaintiff(s):

Alexander Rhodes

Represented By
Carl Mueller

Trustee(s):

Elissa Miller (TR)

Pro Se

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

Tuesday, February 9, 2021

Hearing Room 1545

11:00 AM

2:20-17672 Liberors LLC

Chapter 7

Adv#: 2:20-01664 Rhodes v. Liberors LLC

#2.00 Cont'd status conference re: First amended complaint by Alexander Rhodes against debtor Liberors LLC to determine nondischargeability of debt pursuant to 11 U.S.C. section 523(a)(6) fr. 1/26/21

Docket 2

***** VACATED *** REASON: Continued to 3/2 per stipulation (dkt. 9) and order thereon**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Liberors LLC

Represented By
Michael Jay Berger

Defendant(s):

Liberors LLC

Pro Se

Plaintiff(s):

Alexander Rhodes

Represented By
Carl Mueller

Trustee(s):

Elissa Miller (TR)

Pro Se

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

Tuesday, February 9, 2021

Hearing Room 1545

11:00 AM

2:19-14137 Zeta Graff

Chapter 7

Adv#: 2:20-01677 Leslie v. Graff

#3.00 Status conference re: Complaint to deny/revoke debtor's discharge pursuant to 11 U.S.C. 727(a) (6) and (d)(3)

Docket 1

Tentative Ruling:

Appearances required.

(A) Current issues

This Court has reviewed the parties' joint status report (adv.dkt. 8) and the other filed documents and records in this adversary proceeding.

(1) Sale or Refinance of Defendant/Debtor's Home

In the parties' joint status report, Defendant/Debtor contends that this proceeding should be postponed because it is likely to become moot when either the Plaintiff/Trustee sells her home or she refinances her home. Adv. dkt. 8, p. 4. There is no tentative ruling, but the parties should be prepared to discuss when they expect the sale or refinancing will be finalized.

(B) Standard requirements

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority

The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this Bankruptcy Court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. See generally *Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and

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11:00 AM

CONT... Zeta Graff

Chapter 7

voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). See generally *In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation

[Intentionally omitted.]

(3) Deadlines

This adversary proceeding has been pending since 12/7/20. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Joinder of parties/amendment of pleadings-deadline: 5/24/21

Discovery cutoff (for completion of discovery): 7/1/21.

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

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

Dispositive motions to be heard no later than: 8/3/21

Joint Status Report: 4/13/21.

Continued status conference: 4/27/21 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: 8/24/21

Pretrial conference: 9/7/21 at 2:00 p.m.

Deliver trial exhibits to other parties and chambers, including direct testimony by declaration unless excused: 9/13/21 (for the format of exhibits and other trial procedures, please see the Procedures of Judge Bason (posted at www.cacb.uscourts.gov) then search for "Trial Practice" BUT, at least during the COVID-19 shut down of the courtroom, also see the forms of order regarding video trials, posted on Judge Bason's portion of the Court's above-referenced web page)

Trial commencement: 9/16/21 at 9:00 a.m.

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

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, February 9, 2021

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11:00 AM

CONT...

Zeta Graff

Chapter 7

required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Zeta Graff

Represented By
Damion Robinson

Defendant(s):

Zeta Graff

Pro Se

Plaintiff(s):

Sam S. Leslie

Represented By
Elissa Miller

Trustee(s):

Sam S Leslie (TR)

Represented By
Elissa Miller

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

Tuesday, February 9, 2021

Hearing Room 1545

11:00 AM

2:18-24302 GL Master Inc

Chapter 7

Adv#: 2:20-01678 Wolkowitz v. Hot Pot Austin LLC

#4.00 Status conference re: Complaint for Avoidance and Recovery of Preferential Transfers [11 U.S.C. Sections 547(b), 550(a), and 551]

Docket 1

Tentative Ruling:

Continue to 5/4/21 at 11:00 a.m. for Plaintiff/Trustee to file a motion for default judgment based on this Court's review of Plaintiff/Trustee's unilateral status report (adv. dkt. 6). Appearances are not required on 2/9/21.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

GL Master Inc

Represented By
Thomas J Polis

Defendant(s):

Hot Pot Austin LLC

Pro Se

Plaintiff(s):

Edward M. Wolkowitz

Represented By
Juliet Y Oh

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, February 9, 2021

Hearing Room 1545

11:00 AM

CONT... GL Master Inc

Chapter 7

Richard P Steelman Jr

Trustee(s):

Edward M Wolkowitz (TR)

Represented By
Juliet Y Oh

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

Tuesday, February 9, 2021

Hearing Room 1545

11:00 AM

2:18-24302 GL Master Inc

Chapter 7

Adv#: 2:20-01679 Wolkowitz v. IPot Plano LLC

#5.00 Status conference re: Complaint for Avoidance and Recovery of Preferential Transfers [11 U.S.C. Sections 547(b), 550(a), and 551]

Docket 1

Tentative Ruling:

Continue to 5/4/21 at 11:00 a.m. based on this Court's review of Plaintiff/Trustee's unilateral status report (adv. dkt. 3). Appearances are not required on 2/9/21.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

GL Master Inc

Represented By
Thomas J Polis

Defendant(s):

IPot Plano LLC

Pro Se

Plaintiff(s):

Edward M. Wolkowitz

Represented By

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

11:00 AM

CONT... GL Master Inc

Chapter 7

Juliet Y Oh
Richard P Steelman Jr

Trustee(s):

Edward M Wolkowitz (TR)

Represented By
Juliet Y Oh

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, February 9, 2021

Hearing Room 1545

11:00 AM

2:18-24302 GL Master Inc

Chapter 7

Adv#: 2:20-01680 Wolkowitz v. The Law Offices of Lynn Chao, A.P.C., a California

- #6.00** Status conference re: Complaint for avoidance and recovery of preferential transfers [11 U.S.C. sections 547(b), 550(a), and 551]

Docket 1

Tentative Ruling:

Appearances required.

(A) Current issues

This Court has reviewed the parties' joint status report (adv.dkt. 5) and the other filed documents and records in this adversary proceeding. Certain key persons already have been ordered to mediation in the bankruptcy case as a whole, by oral order at the hearing on 1/26/21 commencing at 2:00 p.m. (see *also* Mem. Dec., dkt.276, p.30:20-21). But no proposed mediation has been lodged as of the preparation of this tentative ruling. Therefore, as a "belt and suspenders" precaution, the tentative ruling is to order mediation in this adversary proceeding as well (as set forth below).

(B) Standard requirements

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority

The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this Bankruptcy Court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. See *generally Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l*

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11:00 AM

CONT...

GL Master Inc

Chapter 7

Network, Ltd. v. Sharif, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). See generally *In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation

Is there is any reason why this Court should not order the parties to mediation before one of the volunteer mediators (*not* a Bankruptcy Judge), and meanwhile set the deadlines set forth below? The tentative ruling is to set a **deadline of 2/23/21** for the parties to lodge a proposed mediation order (the parties are directed to use the time between now and that deadline to find a mutually agreeable mediator whose schedule can accommodate the needs of this matter; and if the parties cannot even agree on a mediator they may lodge separate orders and Judge Bason will chose among them, or issue his own order).

(3) Deadlines

This adversary proceeding has been pending since 12/7/20. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Joinder of parties/amendment of pleadings-deadline: 7/20/21

Discovery cutoff (for completion of discovery): 8/3/21

Expert(s) - deadline for reports: 8/10/21

Expert(s) - discovery cutoff (if different from above): 8/17/21

Dispositive motions to be heard no later than: 9/28/21

Joint Status Report: 4/20/21

Continued status conference: 5/4/21 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers, including direct testimony by declaration unless excused: TBD

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11:00 AM

CONT... **GL Master Inc**
Trial commencement: TBD

Chapter 7

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

GL Master Inc

Represented By
Thomas J Polis

Defendant(s):

The Law Offices of Lynn Chao,

Pro Se

Plaintiff(s):

Edward M. Wolkowitz

Represented By
Juliet Y Oh
Richard P Steelman Jr

Trustee(s):

Edward M Wolkowitz (TR)

Represented By
Juliet Y Oh

**United States Bankruptcy Court
Central District of California
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Tuesday, February 9, 2021

Hearing Room 1545

11:00 AM

2:18-24302 GL Master Inc

Chapter 7

Adv#: 2:20-01681 Wolkowitz v. Wonder Hot Pot Bellaire LLC, a Texas limited liabi

#7.00 Status Conference re: Complaint for Avoidance and Recovery of Preferential Transfers [11 U.S.C. Sections 547(b), 550(a), and 551]

Docket 1

Tentative Ruling:

Continue to 5/4/21 at 11:00 a.m. based on this Court's review of Plaintiff/Trustee's unilateral status report (adv. dkt. 3). Appearances are not required on 2/9/21.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

GL Master Inc

Represented By
Thomas J Polis

Defendant(s):

Wonder Hot Pot Bellaire LLC, a

Pro Se

Plaintiff(s):

Edward M. Wolkowitz

Represented By

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

11:00 AM

CONT... GL Master Inc

Chapter 7

Juliet Y Oh
Richard P Steelman Jr

Trustee(s):

Edward M Wolkowitz (TR)

Represented By
Juliet Y Oh

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, February 9, 2021

Hearing Room 1545

11:00 AM

2:18-24302 GL Master Inc

Chapter 7

Adv#: 2:20-01682 Wolkowitz v. XFY Time Square LLC, a Texas limited liability com

#8.00 Status conference re: Complaint for Avoidance and Recovery of Preferential Transfers [11 U.S.C. Sections 547(b), 550(a), and 551]

Docket 1

Tentative Ruling:

Continue to 5/4/21 at 11:00 a.m. based on this Court's review of Plaintiff/Trustee's unilateral status report (adv. dkt. 3). Appearances are not required on 2/9/21.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

GL Master Inc

Represented By
Thomas J Polis

Defendant(s):

XFY Time Square LLC, a Texas

Pro Se

Plaintiff(s):

Edward M. Wolkowitz

Represented By

**United States Bankruptcy Court
Central District of California
Los Angeles
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11:00 AM

CONT... GL Master Inc

Chapter 7

Juliet Y Oh
Richard P Steelman Jr

Trustee(s):

Edward M Wolkowitz (TR)

Represented By
Juliet Y Oh

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, February 9, 2021

Hearing Room 1545

11:00 AM

2:18-24302 GL Master Inc

Chapter 7

Adv#: 2:20-01683 Wolkowitz v. Young Young Food, LLC

#9.00 Status conference re: Complaint for avoidance and recovery of preferential transfers [11 U.S.C. sections 547(b), 550(a) and 551]

Docket 1

Tentative Ruling:

Appearances required.

(A) Current issues

This Court has reviewed the parties' joint status report (adv.dkt. 5) and the other filed documents and records in this adversary proceeding. Certain key persons already have been ordered to mediation in the bankruptcy case as a whole, by oral order at the hearing on 1/26/21 commencing at 2:00 p.m. (see *also* Mem. Dec., dkt.276, p.30:20-21). But no proposed mediation has been lodged as of the preparation of this tentative ruling. Therefore, as a "belt and suspenders" precaution, the tentative ruling is to order mediation in this adversary proceeding as well (as set forth below).

(B) Standard requirements

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority

The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this Bankruptcy Court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. See *generally Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and

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CONT... GL Master Inc

Chapter 7

voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). See generally *In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation

Is there is any reason why this Court should not order the parties to mediation before one of the volunteer mediators (*not* a Bankruptcy Judge), and meanwhile set the deadlines set forth below? The tentative ruling is to set a **deadline of 2/23/21** for the parties to lodge a proposed mediation order (the parties are directed to use the time between now and that deadline to find a mutually agreeable mediator whose schedule can accommodate the needs of this matter; and if the parties cannot even agree on a mediator they may lodge separate orders and Judge Bason will chose among them, or issue his own order).

(3) Deadlines

This adversary proceeding has been pending since 12/7/20. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Joinder of parties/amendment of pleadings-deadline: 7/20/21

Discovery cutoff (for completion of discovery): 8/3/21

Expert(s) - deadline for reports: 8/10/21

Expert(s) - discovery cutoff (if different from above): 8/17/21

Dispositive motions to be heard no later than: 9/28/21

Joint Status Report: 4/20/21

Continued status conference: 5/4/21 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers, including direct testimony by declaration unless excused: TBD

Trial commencement: TBD

**United States Bankruptcy Court
Central District of California
Los Angeles
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11:00 AM

CONT... **GL Master Inc**

Chapter 7

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

GL Master Inc

Represented By
Thomas J Polis

Defendant(s):

Young Young Food, LLC

Pro Se

Plaintiff(s):

Edward M. Wolkowitz

Represented By
Juliet Y Oh
Richard P Steelman Jr

Trustee(s):

Edward M Wolkowitz (TR)

Represented By
Juliet Y Oh

**United States Bankruptcy Court
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Courtroom 1545 Calendar**

Tuesday, February 9, 2021

Hearing Room 1545

11:00 AM

2:18-20704 Finnian Osakpamwan Ebuehi and Elizabeth Olohirere

Chapter 7

#10.00 Hrg re: Motion to Sell Property of the Estate Free and Clear of Liens under Section 363(f) Notice of Motion and Motion for Order: (A) Authorizing Sale of Real Property Located at 1580 W. 2nd Street, Pomona, California 91766 Outside the Ordinary Course of Business, Free and Clear of Claims, Liens, Encumbrances and Interests; and (B) Approving the Form and Manner of Notice and Bid Process

Docket 438

Tentative Ruling:

Appearances required.

Grant as set forth below, subject to overbids at the hearing.

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

Key documents reviewed (in addition to motion papers): Deutsche Bank's non-opposition (dkt. 443)

Analysis: The tentative ruling is to grant the sale motion and authorize a sale free and clear (11 U.S.C. 363(b) & (f)), subject to overbids.

In addition, the tentative ruling is to grant the request for a "good faith" finding (11 U.S.C. 363(m)) if Emery Shen is the successful bidder and, alternatively, subject to the successful bidder or backup bidder filing declaration(s) providing sufficient evidence of such good faith (see the posted Procedures of Judge Bason, available at www.cacb.uscourts.gov).

The tentative ruling is also to grant the request to waive the 14-day stay provided by Rule 6004(h) (Fed. R. Bankr. P.).

The tentative ruling is also to grant the request to pay Cartwright Construction

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CONT... **Finnian Osakpamwan Ebuehi and Elizabeth Olohirere** Chapter 7

\$780 as an actual and necessary cost of preserving the estate (11 U.S.C. 503(b)(1)(A)(i)) from the sale proceeds.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Finnian Osakpamwan Ebuehi

Represented By
Joseph Virgilio
Bernal P Ojeda

Joint Debtor(s):

Elizabeth Olohirere Ebuehi

Represented By
Joseph Virgilio
Bernal P Ojeda

Trustee(s):

Peter J Mastan (TR)

Represented By
Ashleigh A Danker

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Hearing Room 1545

11:00 AM

2:19-17738 Carolyn Yvonne Morgan

Chapter 7

#11.00 Hrg re: Motion to Approve Stipulation Among Chapter 7 Trustee, the United States of America on Behalf of its Agency, the Internal Revenue Service, and the California Franchise Tax Board, for Avoidance of Liens that Secure Claims of a Kind Specified in Bankruptcy Code Section 724(a)

Docket 32

Tentative Ruling:

Continue to 3/2/21 at 11:00 a.m., concurrent with the Trustee's motion for order disallowing Debtor's homestead exemption (dkt. 39). Appearances are not required on 2/9/21.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Carolyn Yvonne Morgan

Pro Se

Trustee(s):

Howard M Ehrenberg (TR)

Represented By
Steven Werth

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Hearing Room 1545

11:00 AM

2:19-20396 Irene H Kim

Chapter 7

Adv#: 2:20-01303 Yoo v. Kim et al

#12.00 Hrg re: Motion to Set Aside Default Judgment

Docket 31

Tentative Ruling:

Appearances are not required. For the reasons set forth below, the tentative ruling is to deny the motion.

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

Key documents reviewed (in addition to motion papers): Plaintiff/Trustee's opposition (adv. dkt. 34), no reply is on file

Reasons for denial:

(a) Legal standard

Relief in this instance is governed by Rule 60(b) (Fed. R. Civ. P.), made applicable by Rule 9024 (Fed. R. Bankr. P.). Although Rule 60(b) contains six different grounds for relief, Defendants seek relief solely under Rule 60(b)(1). Adv. dkt. 31.

Rule 60(b)(1) allows relief from a judgment or order when the party establishes "mistake, inadvertence, surprise or excusable neglect." "In deciding whether to grant relief under this provision in the context of a default judgment, the trial court must examine three factors: (1) whether the defendant's culpable conduct led to the default, (2) whether the defendant had a meritorious defense or (3) whether reopening the default judgment would prejudice the plaintiff." *In re Ruiz*, 2006 Bankr. LEXIS 4893, at *13 (9th Cir. BAP Apr. 7, 2006) (citations omitted, emphasis added). "These factors are disjunctive, meaning that the bankruptcy court may properly deny the motion and refuse to grant relief if any one of the three factors [is] satisfied." *Id.* (citation omitted). The party seeking relief from judgment bears the

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burden of proof. *Id.*

(b) Analysis

(1) Culpability

"The concept of the defendant's 'culpability' is construed to be consistent with the Supreme Court's definition of 'excusable neglect' in the context of retroactive extensions of time under rules of procedure." *In re Peralta*, 317 B.R. 381, 388 (9th Cir. BAP 2004) (citation omitted); Fed. R. Bankr. P. 9006. "The embedded concept of excusable neglect is equitable and entails such considerations as 'prejudice to the debtor, the length of the delay and its potential impact on judicial proceedings, the reason for the delay, including whether it was within the reasonable control of the movant, and whether the movant acted in good faith." *Id.* (quoting *Pioneer Inv. Servs. Co. v. Brunswick Assocs. Ltd P'Ship*, 507 U.S. 380, 395 (1993)).

Defendants argue that they did not engage in culpable conduct that led to entry of the default judgment because they were in Korea at the time the adversary complaint was served upon them, via U.S. mail, at their California address, and that they did not discover Plaintiff/Trustee's claims against them until after default judgment was entered. Adv. Dkt. 31, pp.6:7-20, 8:7-11 & 9:8-12. But, as Plaintiff/Trustee highlights, Defendants have not presented any corroborating evidence in support of that assertion - only their bare declarations, unsupported by any copies of passport stamps etc. Adv. dkt. 34, p.12:13-16 & Ex.E.

Additionally, even if there were evidence to corroborate Defendants' assertions, those assertions are not enough. They do not explain why, both as a legal matter and as a factual matter, Plaintiff/Trustee's service was insufficient.

As a legal matter, there is no dispute as to service. Defendants do not dispute that Plaintiff/Trustee properly served the summons and complaint at their California residence in accordance with Rule 7004(b)(1) (Fed. R. Bankr. P.) by mailing a copy of the summons and complaint to their dwelling house by first class U.S. mail. See adv. dkt. 4, p.4 (proof of service of summons and complaint) & adv. dkt. 31, pp.8:7-8, 15-17, 9:8-9 & Ex.A (Defendants' declarations confirming address served is their "California address"); see also *Peralta*, 317 B.R. 381, 386 (certificate of mailing creates a rebuttable presumption that the documents sent were properly mailed and received) (citations omitted); *In re Safadi*, 431 B.R. 478, 482 (Bankr. D. Ariz. 2010) (Rule 7004(b)(1) does not require receipt, only mailing, for service to be

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effective). Therefore, the tentative ruling is that Defendants have not established any procedural grounds to relieve them from default.

As a factual matter, Defendants also do not offer any explanation for their failure to arrange to have their mail forwarded to them or to permit someone else to collect and review their mail while they were out of the country. See *Safadi*, 431 B.R. 478 (rejecting defendant's argument that plaintiff's service of the summons and complaint on him and request for default judgment while he was out of the country on an extended vacation was sufficient excusable neglect under Rule 60(b)(1)); *Peralta*, 317 B.R. 381 (finding that defendant's conduct did not establish that he was free of neglect or that his actions were excusable based on defendant's alleged difficulties receiving mail).

Alternatively, even if Defendants' factual assertions were supported by evidence of those specific allegations, any such evidence would be insufficient to overcome the Plaintiff/Trustee's *prima facie* showing that they had knowledge of this proceeding. Although Defendants claim to have lacked such knowledge until after this Court entered default judgment against them, that is insufficient for two reasons.

First, Defendants fail to explain how they can overcome Plaintiff/Trustee's *prima facie* showing when, in addition to the issues noted above, Defendant Hyong Chan Kim is Debtor's brother. Defendants offer no explanation (let alone evidence) why their brother/brother in law would fail to notify them.

Second, Defendants' alleged lack of knowledge is contrary to the record. Specifically, there is evidence that Defendants were aware of Plaintiff/Trustee's claims against them at least as early as 11/19/20, because Debtor's counsel represented in a joint status report that "Defendants Hyong Chan Kim and Sunhee Kim are in the process of retaining this office to respond to the Trustee's complaint" Adv. dkt. 21, p.2, para. "(5)".

Defendants offer no excuse for not acting more swiftly in responding to Plaintiff/Trustee's motion for default judgment, or at least appearing *in pro per* by video conference at the 12/1/20 hearing on that motion to request additional time to respond. This Court's posted procedures (available at www.cacb.uscourts.gov) make such appearances easy and free.

For all of the foregoing reasons, the tentative ruling is that Defendants have not carried their burden on this factor. The tentative ruling is to deny the motion on this ground alone.

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(2) Meritorious defense

To satisfy the 'meritorious defense' factor, the moving party must "allege sufficient facts that, if true, would constitute a defense: the question whether the factual allegation [i]s true is not to be determined by the court when it decides the motion to set aside default. Rather, that question would be the subject of the later litigation." *U.S. v. Aguilar*, 782 F.3d 1101, 1107 (9th Cir. 2015) (internal quotations and citations omitted).

In support of the motion, Defendants attach a proposed answer asserting sixteen boiler-plate affirmative defenses (dkt. 31, pp.15-20). But, as Plaintiff/Trustee highlights, Defendants fail to properly address how they might have a meritorious defense under any one of those affirmative defenses. Instead, Defendants focus on the purported lack of any fraudulent intent on Debtor's part and argue that transfers at issue in the complaint were only made to facilitate a refinance of the subject property at Debtor's mother's request. They argue that the equity in the property belongs to Debtor's mother, as the true owner, and not Debtor.

But Defendants do not dispute that Debtor was on record title for the property which, as Plaintiff/Trustee correctly notes, creates a rebuttable presumption that Debtor was the true owner. See Cal. Evid. Code 662 ("The owner of legal title to property is presumed to be the owner of the full beneficial title. This presumption may be rebutted only by clear and convincing proof"). Defendants have not made any offer of proof that they could produce evidence at trial sufficient to overcome California's title presumption or cited any legal authority that would provide a viable basis to overcome that presumption.

Nor have they made any offer of proof that they have evidence to support their assertion that the transfers were solely to facilitate a refinance – they do not state that they have written communications between themselves documenting their need to transfer the property for refinance purposes or communications from a mortgage broker or bank denying Debtor's mother's attempt to refinance the subject property. See *Aguilar*, 782, F.3d 1101, 1108 ("[A]lthough the burden of alleging a potentially meritorious defense is minimal, we will not manufacture" arguments for them") (internal quotations and citations omitted).

Nor have Defendants' addressed Plaintiff/Trustee's point that, if Debtor's mother really had asserted an ongoing ownership of the subject

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Irene H Kim

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property and the purported transfers were only for refinancing purposes, then Debtor's mother would have perjured herself in her own bankruptcy case by failing to disclose her alleged interest in the property. This is an alternative reason why Defendants - even if they had provided evidence to support their assertions - would not have overcome Plaintiff/Trustee's *prima facie* showing.

Based on the foregoing, the tentative ruling is that Defendants have failed to assert a meritorious defense. The tentative ruling is that for this alternative reason the motion must be denied.

(3) Prejudice to Plaintiff/Trustee

Because Defendants have not carried their burden as to the first two factors, the tentative ruling is that this Court will not address whether this factor is satisfied.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Irene H Kim

Represented By
Donald E Iwuchuku

Defendant(s):

Hyong Chan Kim

Represented By
Donald E Iwuchuku

Sunhee Kim

Represented By

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Irene H Kim

Donald E Iwuchuku

Represented By
Donald E Iwuchuku

Plaintiff(s):

Timothy J Yoo

Represented By
Carmela Pagay

Trustee(s):

Timothy Yoo (TR)

Represented By
Carmela Pagay

**United States Bankruptcy Court
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11:00 AM

2:19-23664 Liat Talasazan

Chapter 7

#13.00 Hrg re: Debtor's motion for an order disallowing
Claim Filed By Oxygen Funding, Inc. [Proof Of Claim No. 9]

Docket 474

***** VACATED *** REASON: This matter is scheduled to be heard at a
different time. See #3 at 2:00 p.m.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Liat Talasazan

Represented By
Giovanni Orantes
Luis A Solorzano

Trustee(s):

Caroline Renee Djang (TR)

Pro Se

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11:00 AM

2:20-12732 Parvin Jamali

Chapter 7

#14.00 Hrg re: Chapter 7 Trustee's Intention to Abandon Assets

Docket 207

Tentative Ruling:

Grant, for the reasons stated in Trustee's motion papers (dkt.207) and reply (dkt.215). Appearances are not required.

Key documents reviewed (in addition to motion papers): Natalia Espinal's opposition (dkt. 210), Trustee's reply (dkt. 215).

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

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Parvin Jamali

Represented By
Yevgeniya Lisitsa
W. Derek May

Trustee(s):

Timothy Yoo (TR)

Represented By

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CONT...

Parvin Jamali

Carmela Pagay

Chapter 7

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11:00 AM

2:17-23651 Letitia Louise Wellington

Chapter 7

#15.00 Cont'd hrg re: Motion for Substantive Consolidation of the Estate of the Debtor and Nondebtor Spouse Amos Q. Wellington fr. 6/12/18, 07/17/18, 10/16/18, 03/12/19, 4/9/19, 05/21/19, 7/9/19, 10/1/19, 2/4/20, 4/7/20, 7/14/20, 09/01/20, 12/08/20

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CONT... Letitia Louise Wellington

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CONT... Letitia Louise Wellington

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CONT... Letitia Louise Wellington

Chapter 7

fr. 10/6/20

Docket 43

*** VACATED *** REASON: Continued to 3/9/21 per stipulation (dkt. 209).

Tentative Ruling:

Party Information

Debtor(s):

Letitia Louise Wellington

Pro Se

Movant(s):

Michael D. Madison Sr.

Represented By
Stella A Havkin

Trustee(s):

Wesley H Avery (TR)

Represented By
Brett B Curlee

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Hearing Room 1545

11:00 AM

2:17-23651 Letitia Louise Wellington

Chapter 7

Adv#: 2:19-01211 Avery v. Wellington et al

#16.00 Cont'd Status Conference re: Complaint for 1. Declaratory Relief; 2. Turnover of Bankruptcy Estate Property Under 11 U.S.C. Section 542(a); and 3. Authorization to Sell Estate Property Under 11 U.S.C. Section 363(h) and FRBP 7001(3) Free of Co-Owner Interest; 4. Bar Debtor and Amos Q. Wellington from Recovering Avoided Transfer Under Bankruptcy Code, Under 11 U.S.C. Section 522(g)(1)(A) and (B) fr. 9/24/19, 11/12/19, 3/10/20, 7/14/20, 09/01/20, 10/6/20, 12/08/20

Docket 1

*** VACATED *** REASON: Continued to 3/9/21 per stipulation (dkt. 209).

Tentative Ruling:

Party Information

Debtor(s):

Letitia Louise Wellington	Pro Se
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Defendant(s):

Letitia Louise Wellington	Pro Se
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Amos Q. Wellington	Pro Se
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Jonathan Wellington	Pro Se
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Michael Wellington	Pro Se
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Plaintiff(s):

Wesley H Avery	Represented By Brett B Curlee
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Trustee(s):

Wesley H Avery (TR)	Represented By Brett B Curlee
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Tuesday, February 9, 2021

Hearing Room 1545

1:00 PM

2:14-29665 Unghwan Choi

Chapter 11

#1.00 Hrg re: Motion by Reorganized Debtor for Entry of Discharge

Docket 160

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 2, 2/9/21 at 1:00 p.m.).

Party Information

Debtor(s):

Unghwan Choi

Represented By
M. Jonathan Hayes
Roksana D. Moradi-Brovia

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1:00 PM

2:14-29665 Unghwan Choi

Chapter 11

#2.00 Cont'd status conference re: Post Confirmation
fr. 1/26/16, 5/10/16

Docket 0

Tentative Ruling:

Tentative Ruling for 2/9/21:
Appearances are not required.

(1) Current issues

(a) Motion for entry of discharge (dkt.160); no opposition on file
Grant.

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

(2) Status conference

The tentative ruling is not to set any continued status conference, and instead to direct Debtor to lodge a proposed order re-closing this case on a final basis.

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

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

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CONT... Unghwan Choi

Chapter 11

Party Information

Debtor(s):

Unghwan Choi

Represented By
M Jonathan Hayes

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Hearing Room 1545

1:00 PM

2:21-10368 Mrudula Kothari

Chapter 11

#3.00 Hrg re: Motion in Individual Case for Order
Imposing a Stay or Continuing the Automatic
Stay as the Court Deems Appropriate

Docket 16

Tentative Ruling:

Appearances are not required.

Grant, subject to the following conditions.

After the hearing date this Court will prepare an order and the tentative ruling is to include the following language in that order:

The stay of 11 U.S.C. 362(a) applies subject to the following modifications and conditions:

(1) Service and reconsideration. Any party in interest who was not timely served in accordance with FRBP 7004 (incorporated by FRBP 9014(b)) is hereby granted through 14 days after proper service to seek reconsideration, including retroactive relief (under FRBP 9023 and/or 9024). Any such person (a) may set a hearing on 14 days' notice, (b) may appear by telephone (if arrangements are made per Judge Bason's posted procedures), and (c) may present all arguments orally at the hearing (*i.e.*, no written argument is required). If written arguments appear necessary then this court will set a briefing schedule at the hearing.

(2) Reasons. (a) It appears appropriate to impose the automatic stay, and to impose it as to all persons rather than just as to selected persons, because one purpose of the automatic stay is to preventing a "race to collect" that could unfairly advantage some creditors at the expense of others. (b) To prevent possible abuse, this Court provides the foregoing simple process for reconsideration.

(3) Very limited ruling. This Court's tentative ruling to grant the foregoing relief is solely for purposes of this motion, and is not intended to have any binding effect with respect to any future

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CONT...

Mrudula Kothari

Chapter 11

assertions by any party in interest regarding the existence or lack of existence of good faith in any other context.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Mrudula Kothari

Represented By
Stella A Havkin

Trustee(s):

Susan K Seflin (TR)

Pro Se

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Tuesday, February 9, 2021

Hearing Room 1545

1:00 PM

2:21-10368 Mrudula Kothari

Chapter 11

#4.00 Status Conference re: Chapter 11 Case

Docket 1

Tentative Ruling:

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

(1) Current issues

(a) Debtor's motion to continue the automatic stay (dkt. 16), no opposition is on file

The tentative ruling is to grant the motion, subject to the conditions set forth in the tentative ruling for that matter (Calendar No. 3, 2/9/21 at 1:00 p.m.).

(b) "First-Day" motions

If Debtor has not filed a budget motion or any other typical so-called "first-day" motion(s) by the time of this hearing, the tentative ruling is to set a **deadline of 2/16/21** for Debtor to file any outstanding motion(s) with a hearing concurrent with the continued status conference. Debtor is directed to address at the hearing what motions are required or appropriate, including whether it is really true that, as Debtor has represented in the Status Report (dkt.22), there are no utilities for which a utility motion might be required, no cash that anyone could claim as cash collateral, and no executory contracts or unexpired leases (e.g., for pest control or cleaning services at the hotels?).

(c) Employment application (dkt.26)

Is the retainer \$11,000.00, as stated in the Statement of Disinterestedness (dkt.26, at PDF p.17, para.4) or \$12,000.00, as stated in Debtor's declaration (dkt.26, p.8) and in the retainer letter (dkt.26, Ex.2, at PDF p.14, para.4)?

In future, Debtor's counsel is encouraged to avoid such issues by following the posted "Procedures of Judge Bason":

Note: the judge prefers that local form F 2014-1 not repeat the employment application – instead simply say "see application" or the

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CONT...

Mrudula Kothari

Chapter 11

like (reasons: proposed professionals frequently do not track the language of Rule 2014, so the judge requires use of the form so that someone verifies the elements of that rule under penalty of perjury, and so the court staff does not have to do a line-by-line comparison with each element of the Rule).

- (2) Dates/procedures. This case was filed on 1/19/21 .
- (a) Bar date: 3/30/21 per General Order 20-01 (70 days after petition date in Subchapter V cases) (DO NOT SERVE any notice: one has already been sent, see dkt. 11).
 - (b) Procedures order: dkt. 8 (timely served, dkt. 12)
 - (c) Plan/Disclosure Statement: file by 4/16/21 (DO NOT SERVE - except on the U.S. Trustee). See the **revised** "Procedures of Judge Bason" (available at www.cacb.uscourts.gov) (search for "Chapter 11: Plan").
 - (d) Continued status conference: 3/2/21 at 1:00 p.m. No written status report is required.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Mrudula Kothari

Represented By
Stella A Havkin

**United States Bankruptcy Court
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Hearing Room 1545

1:00 PM

2:20-11675 Korean Western Presbyterian Church of Los Angeles

Chapter 11

#5.00 Cont'd Status Conference re: Chapter 11 Case
fr. 2/28/20, 03/31/20, 4/21/20, 5/5/20, 6/30/20,
10/6/20

Docket 1

Tentative Ruling:

Tentative Ruling for 2/9/21:

Continue as set forth below based on this Court's review of the trustee's status report (dkt. 199). Appearances are not required on 2/9/21.

(1) Current issues

This Court has no issues to raise *sua sponte*.

(2) Deadlines/dates. This case was filed on 2/14/20.

(a) Bar date: 6/30/20 (dkt. 160; timely served, dkt. 161, 171).

(b) Procedures order: dkt.5. (no proof of service)

(c) Plan/Disclosure Statement*: TBD. See the **revised** "Procedures of Judge Bason" (available at www.cacb.uscourts.gov) (search for "Chapter 11: Plan").

(d) Continued status conference: 5/11/21 at 1:00 p.m. *Brief* status report due 4/27/21.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

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1:00 PM

CONT... Korean Western Presbyterian Church of Los Angeles

Chapter 11

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Korean Western Presbyterian Church

Represented By
Victor A Sahn
Steven Werth

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

Tuesday, February 9, 2021

Hearing Room 1545

1:00 PM

2:19-24099 Jeremy Caleb Gardiner

Chapter 11

#6.00 Cont'd Status Conference re: Chapter 11 Case
fr. 12/17/19, 1/28/20, 3/3/20, 5/12/20, 7/14/20,
9/1/20, 9/29/20, 10/6/20, 10/27/20, 11/10/20,
12/8/20

Docket 6

Tentative Ruling:

Tentative Ruling for 2/9/21:

Appearances required.

(1) Current issues

(a) 3d Amended Plan (dkt.100) and Disclosure Statement (dkt.99),
Amendment to Stipulation re: Treatment of Creditor's Claim Under Debtor's
Chapter 11 Plan of Reorganization and Non-Material Modification to Debtor's
3rd Amended Plan (the "Stipulation," dkt. 108, 109), Ballot Summary (dkt.
112); no objections on file

The tentative ruling is (a) to approve the Disclosure Statement on a final basis and (b) to confirm the proposed Plan under 11 U.S.C. 1129(b) ("cramdown"), as modified by the Stipulation, because the Plan is fair and equitable, and does not discriminate unfairly, with respect to the one impaired class that did not affirmatively vote to accept the Plan (Class 1B), and the Stipulation's modifications do not adversely affect other creditors so re-balloting is not required under Rule 3019(a) (Fed. R. Bankr. P.). The tentative ruling is to set a post-confirmation status conference as set forth below.

Proposed orders: Debtor is directed to lodge (i) a proposed order approving the Disclosure Statement on a final basis and (ii) a proposed order confirming the Plan (with the language required by the LBR) and setting the post-confirmation status conference as provided below. Those proposed orders must be lodged via LOU within 7 days after the hearing date and attach a copy of this tentative ruling, thereby adopting it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b) (1)(B).

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1:00 PM

CONT... **Jeremy Caleb Gardiner**

Chapter 11

- (2) Deadlines/dates. This case was filed on 12/2/19.
- (a) Bar date: 2/17/20 (dkt. 22; timely served, dkt. 23)
 - (b) Procedures order: dkt. 5 (timely served, dkt. 9)
 - (c) Plan/Disclosure Statement (dkt. 99, 100)*: See above.
 - (d) Post-confirmation status conference: **5/4/21 at 1:00 p.m.** Written status report due **4/20/21**.

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

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Jeremy Caleb Gardiner

Represented By

Matthew D. Resnik

Roksana D. Moradi-Brovia

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, February 9, 2021

Hearing Room 1545

1:00 PM

2:19-24099 Jeremy Caleb Gardiner

Chapter 11

#6.10 Combined hrg re: Approval of disclosure statement
and plan

Docket 99

Tentative Ruling:

Tentative Ruling for 2/9/21:

Please see the tentative ruling for the status conference (Calendar No. 6,
2/9/21 at 1:00 p.m.).

Party Information

Debtor(s):

Jeremy Caleb Gardiner

Represented By
Matthew D. Resnik
Roksana D. Moradi-Brovia

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, February 9, 2021

Hearing Room 1545

1:00 PM

2:19-20000 9469 BEVERLY CREST LLC

Chapter 11

#7.00 Cont'd Status Conference re: Chapter 11 Case
fr. 9/24/19, 11/5/19, 12/10/19, 1/28/20, 03/31/20,
4/7/20, 6/2/20, 8/4/20, 10/6/20, 12/1/20, 12/22/20

Docket 1

Tentative Ruling:

Tentative Ruling for 2/9/21:

Continue as set forth below. Appearances are not required on 2/9/21.

(1) Current issues

At the hearing on 12/22/20, Debtor represented that it intended to continue pursuing efforts to sell the property, notwithstanding this Court's entry of an order granting NVSI, Inc. relief from stay (dkt. 149). This Court is not aware of any additional issues that need to be addressed currently, and in an effort to minimize administrative expenses this Court's tentative ruling is to continue this matter without requiring appearances at this time.

(2) Deadlines/dates. This case was filed on 8/26/19.

(a) Bar date: 11/25/19 (dkt. 29; timely served, dkt. 31).

(b) Procedures order: dkt. 11 (timely served, dkt. 24)

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

(d) Continued status conference: 3/9/21 at 1:00 p.m. (if this case is not dismissed). No written status report required.

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

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov

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CONT... 9469 BEVERLY CREST LLC Chapter 11

instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

9469 BEVERLY CREST LLC

Represented By
John N Tedford IV
George E Schulman

**United States Bankruptcy Court
Central District of California
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1:00 PM

2:20-11333 Edmund Lincoln Anderson

Chapter 11

#8.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 11/10/20, 12/1/20, 1/5/21

WILMINGTON SAVINGS FUND SOCIETY, FSB
vs
DEBTOR

Docket 225

***** VACATED *** REASON: Withdrawal of Motion Filed 01/20/21 (Dkt. 283)**

Tentative Ruling:

Party Information

Debtor(s):

Edmund Lincoln Anderson

Represented By
Stella A Havkin

Movant(s):

Wilmington Savings Fund Society,

Represented By
Lior Katz

**United States Bankruptcy Court
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Hearing Room 1545

1:00 PM

2:20-11333 Edmund Lincoln Anderson

Chapter 11

#9.00 Cont'd hrg re: Motion for Order Disallowing the 2014 Assessment for the Tax Year 2009 Set Forth in Proof of Claim Number 5 of the United States of America Internal Revenue Service Pursuant to FRBP 3001(c), 11 U.S.C. Section 502(b)(1) fr. 8/18/20, 11/03/20, 1/5/21

Docket 155

Tentative Ruling:

Tentative Ruling for 2/9/21:

Please see the tentative ruling for the status conference (Calendar No. 10, 2/9/21 at 1:00 p.m.).

Tentative Ruling for 1/5/21:

Please see the tentative ruling for the status conference (Calendar No. 8, 1/5/21 at 1:00 p.m.).

Party Information

Debtor(s):

Edmund Lincoln Anderson

Represented By
Stella A Havkin

Movant(s):

Edmund Lincoln Anderson

Represented By
Stella A Havkin

**United States Bankruptcy Court
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1:00 PM

2:20-11333 Edmund Lincoln Anderson

Chapter 11

#10.00 Cont'd Status Conference re: Chapter 11 Case
fr. 3/3/20, 3/10/20, 4/7/20, 4/21/20, 6/2/20, 7/14/20,
7/28/20, 8/18/20, 9/1/20, 10/6/20, 10/27/20, 12/1/20,
1/5/21

Docket 1

Tentative Ruling:

Tentative Ruling for 2/9/21:

Appearances required.

(1) Current issues

(a) Motion (Claim Objection) re 2009 taxes in Proof of Claim Number 5 (dkt. 155), Opposition of U.S./IRS (dkt. 268), Debtor's reply (dkt.269), Status Conference and Scheduling Order (dkt. 284).

On 1/21/21, this Court entered a Status Conference and Scheduling Order in connection with Debtor's claim objection. The Scheduling Order set a pre-trial conference date for 7/27/21 at 1:00 p.m. The tentative ruling is not to set any additional hearings on the Claim Objection before then.

(b) Monthly Operating Reports ("MORs") (dkt. 298)

At the 1/5/21 hearing, Debtor's counsel stated that she would work with Debtor to ensure that future MORs are clearer. Upon review of the December MOR, all accounts remain labeled as general accounts. Debtor is directed to address why the accounts are not labeled according to the property to which each one relates as discussed at the 1/5/21 hearing.

Debtor is also directed to address where the rental income has been deposited. It is unclear where the amounts listed on the spreadsheets detailing the income for each property have been deposited. Dkt. 298, PDF pp. 61-69.

(2) Deadlines/dates. This case was filed on 2/6/20.

(a) Bar date: 5/1/20 (dkt. 50; timely served, dkt. 55).

(b) Procedures order: dkt. 7 (timely served, dkt.8)

(c) Plan/Disclosure Statement (dkt. 251, 250)*: TBD.

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CONT...

Edmund Lincoln Anderson

Chapter 11

(d) Continued status conference: 3/2/21 at **2:00 p.m.** to be concurrent with the objection to claim no. 18 (dkt.292, 297). No written status report is required.

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

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Edmund Lincoln Anderson

Represented By
Stella A Havkin

**United States Bankruptcy Court
Central District of California
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1:00 PM

2:20-20909 VEEJ Corp

Chapter 11

#11.00 Cont'd hrg re: Debtor's emergency motion for order establishing procedures for providing adequate assurance of payment to utility companies for post-petition services and prohibiting alteration, refusal or discontinuance of utility services fr. 12/22/20

Docket 5

Tentative Ruling:

Tentative Ruling for 2/9/21:

Please see the tentative ruling for the Status Conference (Calendar No. 13, 2/9/21 at 1:00 p.m.).

Tentative Ruling for 12/22/20:

Appearances required.

Grant, subject to any opposition at the hearing, per this Court's order shortening time (dkt. 7) and Debtor's proof of service (dkt.11).

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

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

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1:00 PM

CONT... VEEJ Corp

Chapter 11

Debtor(s):

VEEJ Corp

Represented By
Jeffrey S Shinbrot

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

Tuesday, February 9, 2021

Hearing Room 1545

1:00 PM

2:20-20909 VEEJ Corp

Chapter 11

#12.00 Cont'd hrg re: Motion for relief from stay [UD]
1/26/21

MOSS ATKINSON FAMILY TRUST
VS
DEBTOR

Docket 30

*** VACATED *** REASON: Continued to 3/2/21 @ 1:00 p.m. pursuant to
stipulation (dkt. 55).

Tentative Ruling:

Party Information

Debtor(s):

VEEJ Corp

Represented By
Jeffrey S Shinbrot

Movant(s):

Moss Atkinson Family Trust

Represented By
Giovanni Orantes

Trustee(s):

Susan K Seflin (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 1545

1:00 PM

2:20-20909 VEEJ Corp

Chapter 11

#13.00 Cont'd Status Conference re: Chapter 11 Case
fr. 1/5/21, 1/26/21

Docket 1

Tentative Ruling:

Tentative Ruling for 2/9/21:

Continue as set forth below. No appearances are required on 2/9/21.

(1) Current issues

(a) Final Hearing on Debtor's Emergency Motion for Order Establishing Procedures for Providing Adequate Assurance of Payment to Utility Companies for Post-Petition Services and Prohibiting Alteration, Refusal or Discontinuance of Utility Services ("Utility Motion") (dkt. 5), interim Utility Order (dkt. 25)

As of the date of this tentative ruling, no Additional Assurance Request has been filed with this Court. Therefore, the tentative ruling is to grant the Utility Motion on a final basis.

(2) Deadlines/dates. This case was filed on 12/13/20. Debtor elected to proceed under Subchapter V.

(a) Bar date: 2/22/21 per General Order 20-01 (70 days after petition date in Subchapter V cases) (DO NOT SERVE any notice: one has already been sent, see dkt.23).

(b) Procedures order: dkt. 3 (timely served, dkt. 6).

(c) Plan/Disclosure Statement: file by 3/15/21. See the **revised** "Procedures of Judge Bason" (available at www.cacb.uscourts.gov) (search for "Chapter 11: Plan").

(d) Continued status conference: 3/23/21 at 1:00 p.m., no written status report is required.

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

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CONT... VEEJ Corp

Chapter 11

are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

VEEJ Corp

Represented By
Jeffrey S Shinbrot

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, February 9, 2021

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1:00 PM

2:20-12865 Migan Murray

Chapter 11

#14.00 Cont'd Status Conference re: Chapter 11 Case
fr. 6/2/20, 7/28/20, 9/1/20, 10/6/20, 12/8/20

Docket 56

Tentative Ruling:

Tentative Ruling for 2/9/21:

Grant the withdrawal motion and continue the status conference as set forth below. Appearances are not required on 2/9/21.

(1) Current issues

(a) Motion to Withdraw as Attorney (dkt. 129); no opposition on file Grant.

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

(2) Deadlines/dates. This case was filed on 3/13/20 and converted from chapter 13 on 4/23/20 (dkt. 45).

(a) Bar date: 6/8/20 (dkt. 58; timely served, dkt. 60).

(b) Procedures order: dkt. 56 (timely served, dkt. 61)

(c) Plan/Disclosure Statement: file by 3/26/21 (DO NOT SERVE - except on the U.S. Trustee). See the **revised** "Procedures of Judge Bason" (available at www.cacb.uscourts.gov) (search for "Chapter 11: Plan").

(d) Continued status conference: 3/2/21 at 1:00 p.m, to be concurrent with the U.S. Trustee's motion (dkt. 132) to dismiss or convert. No written status report required.

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

**United States Bankruptcy Court
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1:00 PM

CONT...

Migan Murray

Chapter 11

appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Migan Murray

Represented By
Andrew Moher

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

1:00 PM

2:20-12865 Migam Murray

Chapter 11

#14.10 Hrg re: Motion to Withdraw as Attorney

Docket 129

Tentative Ruling:

Tentative Ruling for 2/9/21:

Please see the tentative ruling for the status conference (Calendar No. 14, 2/9/21 at 1:00 p.m.).

Party Information

Debtor(s):

Migam Murray

Represented By
Andrew Moher

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1:00 PM

2:20-14672 Truemetrics

Chapter 11

#15.00 Cont'd hrg re: U.S. Trustee's Motion to Dismiss or Convert Case
fr. 10/27/20, 11/10/20, 12/22/20

Docket 57

Tentative Ruling:

Tentative Ruling for 2/9/21:

Please see the tentative ruling for the status conference (Calendar No. 17,
2/9/21 at 1:00 p.m.).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Truemetrics

Represented By
Ryan A. Stubbe

Movant(s):

United States Trustee (LA)

Represented By
Dare Law

Trustee(s):

Gregory Kent Jones (TR)

Pro Se

**United States Bankruptcy Court
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1:00 PM

2:20-14672 Truemetrics

Chapter 11

#16.00 Combined Hrg re: (A) Final Approval of Disclosure Statement
and (B) Confirmation of Chapter 11 Plan
fr. 11/10/20, 12/22/20

Docket 54

Tentative Ruling:

Tentative Ruling for 2/9/21:

Please see the tentative ruling for the status conference (Calendar No. 17,
2/9/21 at 1:00 p.m.).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Truemetrics

Represented By
Ryan A. Stubbe

Trustee(s):

Gregory Kent Jones (TR)

Pro Se

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1:00 PM

2:20-14672 Truemetrics

Chapter 11

#17.00 Cont'd Status Conference re: Chapter 11 Case
fr. 6/2/20, 6/30/20, 8/4/20, 8/18/20, 9/15/20,
10/27/20, 11/10/20, 12/22/20

Docket 1

Tentative Ruling:

Tentative Ruling for 2/9/21:

Continue as set forth below. Appearances are not required on 2/9/21.

(1) Current issues

(a) United States Trustee's motion to dismiss, convert or appoint a chapter 11 trustee (dkt. 58, "MTD"), Debtor's opposition (dkt. 70), UST's reply (dkt. 71), continuing compliance order (dkt. 76)

The tentative ruling is to continue this hearing to be concurrent with the continued status conference (see below, section "(2)(a)").

(b) Amended Disclosure Statement (dkt. 81) and Plan (dkt. 80), JPMC objection (dkt. 82), U.S. Trustee objection (dkt.88), Amended Plan (dkt.89), Amended Disclosure Statement (dkt.90)

Based on the arguments and representations of the parties at the hearing on 12/22/20, this Court was persuaded to continue this matter to this date to see whether Debtor's performance is consistent with its current projections (or not). This Court has reviewed Debtor's MORs for December 2020 (dkt. 93) and January 2021 (dkt.94), which reflect some improvement in Debtor's financial situation. The tentative ruling is to continue this matter to be concurrent with the continued status conference (see below, section "(2)(a)") to allow this Court and other parties in interest to continue to monitor Debtor's performance.

(2) Deadlines/dates. This case was filed on 5/21/20.

(a) Bar date: 7/30/20 per General Order 20-01 (70 days after petition date in Subchapter V cases) (DO NOT SERVE any notice: one has already been sent, see dkt. 12).

(b) Procedures order: dkt.7 (served one day late, dkt. 14)

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(c) PlanDisclosure Statement*: See above.

(d) Continued status conference: 3/23/21 at 1:00 p.m. No written status report required.

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

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 12/22/20:

Appearances required.

(1) Current issues

(a) United States Trustee's motion to dismiss, convert or appoint a chapter 11 trustee (dkt. 58, "MTD"), Debtor's opposition (dkt. 70), UST's reply (dkt. 71), continuing compliance order (dkt. 76)

There is no tentative ruling, but the parties should be prepared to address whether Debtor is in full compliance with all of its reporting and disclosure obligations, and has been maintaining regular communications with the Subchapter V Trustee and creditors.

(b) Amended Disclosure Statement (dkt. 81) and Plan (dkt. 80), JPMC objection (dkt. 82), U.S. Trustee objection (dkt.88), Amended Plan (dkt.89), Amended Disclosure Statement (dkt.90)

(i) Agreement(s)?

The parties are directed to address whether the Plan reflects agreements with creditors, and whether it includes all secured and unsecured

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claims that are allowed, or untimely claims that might (or might not) be allowed. See dkt.82.

(ii) Feasibility?

The good news is that Debtor appears to have corrected its reporting of recent financial history. Compare Disclosure Statement (dkt.90-2), Ex.D (summary of prepetition books & MORs), with U.S. Trustee's Objection (dkt.88), Ex.1 (summary of MORs). In addition, Debtor's historical profit & loss statements (Disclosure Statement, dkt.90-14, Attachment 8) show considerable improvement from the losses in 2018 and 2019 to a modest income in the first part of 2020. The declaration of one of Debtor's principals, Joel Russell (*id.*, dkt.90-15) also appears to show good reasons to anticipate continued improvement. Debtor projects net cash flow (before debt payments) starting at \$6,665.00 for 12/20 and increasing initially to \$7,706.25/mo. and eventually to over \$9,000.00/mo. See Disclosure Statement, dkt.90-11, Attachment 5.

But Debtor's projected cash flows appear to be unrealistic because at present Debtor is barely breaking even, after monthly interest-only payments of \$3,500/mo. to its principal secured creditor, First Home Bank (see, e.g., MOR for 11/20, dkt.86-2, p.2, and MOR for 10/20, dkt.83-5, p.2), whereas under the Plan Debtor would be paying \$5,055.73/mo. to First Home Bank, plus an additional \$519.61 to Chase and \$916.67 to the Subchapter V Trustee or General Unsecured Creditors. See Plan (dkt.89) Ex.A, Classes 2A, 2B & 4A. Based on this apparent gap between projections and recent history, the tentative ruling is to continue the hearing on any Plan and Disclosure Statement until Debtor begins to demonstrate performance consistent with its current projections (or not).

Meanwhile, the tentative ruling is to direct Debtor's counsel not to expend time (and attorney fees) revising the Disclosure Statement to correct the issues noted below, but to be prepared to do so if directed at a future Status Conference (if Debtor's financial performance demonstrates feasibility).

(iii) Corrections to Disclosure Statement (for future reference)

When and if this Court directs, Debtor must prepare a further amended Disclosure Statement correcting formatting issues, such as blank pages (see, e.g., Disclosure Statement (dkt.90-1), Ex.C1 through C3, at PDF pp.2-4) and miniature pages. See *id.*, Ex.E (dkt.90-3). In addition, Ex.C to the Disclosure Statement uses a single, unchanging projection of monthly net income,

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whereas Debtor's actual projections are much more variable (mostly projected increases). The tentative ruling is that Ex.C need not show every monthly variation, but should reflect the average projections for each of the periods in the Plan.

Again, the tentative ruling is to direct Debtor's attorneys not to correct any of the above-referenced issues unless and until Debtor demonstrates sufficient cash flow for feasibility purposes.

(2) Deadlines/dates. This case was filed on 5/21/20.

- (a) Bar date: 7/30/20 per General Order 20-01 (70 days after petition date in Subchapter V cases) (DO NOT SERVE any notice: one has already been sent, see dkt. 12).
- (b) Procedures order: dkt.7 (served one day late, dkt. 14)
- (c) PlanDisclosure Statement*: See above.
- (d) Continued status conference: 1/26/21 at 1:00 p.m. No written status report required.

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

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Truemetrics

Represented By

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Chapter 11

Ryan A. Stubbe

Trustee(s):

Gregory Kent Jones (TR)

Pro Se

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2:19-24048 110 West Properties, LLC

Chapter 11

#18.00 Cont'd hrg re: Motion for Entry of an Order Authorizing the Debtor to Retain and Compensate Professionals Utilized by the Debtor in Ordinary Course of Business
fr. 1/26/21

Docket 186

***** VACATED *** REASON: Stipulation (dkt. 203) and order thereon.**

Tentative Ruling:

Party Information

Debtor(s):

110 West Properties, LLC

Represented By
Gregory K Jones
Jeffrey Huron
Danielle N Rushing

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2:19-24048 110 West Properties, LLC

Chapter 11

#19.00 Cont'd hrg re: Application to Employ and
Compensate BBG, Inc. as Appraiser
fr. 1/26/21

Docket 187

***** VACATED *** REASON: Stipulation (dkt. 203) and order thereon.**

Tentative Ruling:

Party Information

Debtor(s):

110 West Properties, LLC

Represented By
Gregory K Jones
Jeffrey Huron
Danielle N Rushing

Movant(s):

110 West Properties, LLC

Represented By
Gregory K Jones
Jeffrey Huron
Danielle N Rushing

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2:19-24048 110 West Properties, LLC

Chapter 11

#20.00 Cont'd hrg re: Motion to Dismiss Chapter 11 Case
fr. 10/27/20, 12/8/20, 1/26/21

Docket 145

***** VACATED *** REASON: Stipulation (dkt. 203) and order thereon.**

Tentative Ruling:

Party Information

Debtor(s):

110 West Properties, LLC

Represented By
Gregory K Jones
Jeffrey Huron
Danielle N Rushing

Movant(s):

Dos Cabezas Properties, LLC

Represented By
Robert P Goe

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2:19-24048 110 West Properties, LLC

Chapter 11

#21.00 Cont'd Status Conference re: Chapter 11 Case
fr. 12/17/19, 1/28/20, 02/18/20, 3/31/20, 4/21/20,
5/12/20, 6/2/20, 6/30/20, 8/18/20, 9/15/20, 10/27/20,
12/8/20, 1/26/21

Docket 5

***** VACATED *** REASON: Stipulation (dkt. 203) and order thereon.**

Tentative Ruling:

Party Information

Debtor(s):

110 West Properties, LLC

Represented By
Gregory K Jones
Jeffrey Huron
Danielle N Rushing

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2:19-24048 110 West Properties, LLC

Chapter 11

Adv#: 2:20-01012 Tarzana Crossing, a Merchant Faire, LLC v. 110 West Properties, LLC et al

#22.00 Cont'd hrg re: Motion of Creditors/Defendants Dos Cabezas Properties, LLC, Criscione-Meyer Entitlement, a Limited Liability Company Cell of Almond Tree Capital Management Co., LLC, Michael Criscione to Remand Tarzana Crossing, A Merchant Faire, LLC's Complaint and Request for Attorney's Fees in the Amount of \$2,800.00
fr. 03/31/20, 5/12/20, 6/30/20, 8/18/20, 10/27/20, 12/8/20, 1/26/21

Docket 7

***** VACATED *** REASON: Per stipulation (adv.dkt.31) and order thereon.**

Tentative Ruling:

Party Information

Debtor(s):

110 West Properties, LLC

Represented By
Gregory K Jones
Jeffrey Huron
Danielle N Rushing

Defendant(s):

110 West Properties, LLC

Represented By
Gregory K Jones

RU, LLC

Pro Se

Dos Cabezas Properties, LLC

Represented By
Thomas F Nowland
Robert P Goe
Charity J Manee

Criscione-Meyer Entitlement, LLC

Represented By
Thomas F Nowland

Michael Criscione

Represented By
Thomas F Nowland

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CONT... 110 West Properties, LLC

Chapter 11

First American Title Company

Pro Se

Movant(s):

Dos Cabezas Properties, LLC

Represented By
Thomas F Nowland
Robert P Goe
Charity J Manee

Criscione-Meyer Entitlement, LLC

Represented By
Thomas F Nowland

Michael Criscione

Represented By
Thomas F Nowland

Plaintiff(s):

Tarzana Crossing, a Merchant Faire,

Represented By
Alan M Feld
James R Felton

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2:19-24048 110 West Properties, LLC

Chapter 11

Adv#: 2:20-01012 Tarzana Crossing, a Merchant Faire, LLC v. 110 West Properties, LLC et al

#23.00 Cont'd Status Conference re: Notice of Removal
fr. 03/31/20, 5/12/20, 6/30/20, 8/18/20, 10/27/20
12/8/20, 1/26/21

Docket 1

***** VACATED *** REASON: See stipulation (adv.dkt.31) and order
thereon.**

Tentative Ruling:

Party Information

Debtor(s):

110 West Properties, LLC

Represented By
Gregory K Jones
Jeffrey Huron
Danielle N Rushing

Defendant(s):

110 West Properties, LLC

Represented By
Gregory K Jones

RU, LLC

Pro Se

Dos Cabezas Properties, LLC

Represented By
Thomas F Nowland
Robert P Goe
Charity J Manee

Criscione-Meyer Entitlement, LLC

Represented By
Thomas F Nowland

Michael Criscione

Represented By
Thomas F Nowland

First American Title Company

Pro Se

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CONT... 110 West Properties, LLC

Chapter 11

Plaintiff(s):

Tarzana Crossing, a Merchant Faire,

Represented By
Alan M Feld
James R Felton

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2:19-11809 Schaefer Ambulance Service, Inc

Chapter 11

#24.00 Cont'd Status Conference re: Post confirmation
fr. 02/28/19, 03/12/19, 03/26/19, 04/09/19, 5/21/19,
05/21/19, 06/04/19, 6/18/19, 7/30/19; 08/06/19,
8/20/19, 9/24/19, 10/15/19, 11/5/19, 12/10/19, 12/17/19,
1/14/20, 1/28/20, 02/18/20, 3/10/20, 03/31/20, 4/21/20,
5/2/20, 7/28/20, 9/29/20\, 11/10/20

Docket 1

Tentative Ruling:

Tentative Ruling for 2/9/21:
Appearances required.

(1) Current issues

(a) Debtor's Status Report

This Court was persuaded to continue the 11/10/20 post-confirmation status conference to 2/9/21 at 1:00 p.m. In its tentative ruling for the 11/10/20 post-confirmation status conference, this Court directed Debtor to file a brief status report in advance of the continued hearing no later than 1/26/21. As of the preparation of this tentative ruling, no status report has been filed, why not?

(2) Deadlines/dates

This case was filed on 2/20/19, and Debtor's plan was confirmed on 5/15/20 (dkt. 630). The tentative ruling is to set a continued post-confirmation status conference for 5/11/21 at 1:00 p.m., with a *brief* status report due 4/27/21.

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

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CONT... **Schaefer Ambulance Service, Inc** **Chapter 11**
COVID-19 procedures, all appearances are telephonic via CourtCall at (888)
882-6878.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Schaefer Ambulance Service, Inc

Represented By
Craig G Margulies
Montserrat Morales

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2:20-18530 Socorro Evelina Garcia

Chapter 7

#1.00 Hrg re: Motion to Set Aside State Court Default
Judgment for Violation of the Automatic Stay

Docket 24

Tentative Ruling:

Appearances required.

The tentative ruling is to grant the motion and impose sanctions as set forth below.

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

Key documents reviewed (in addition to motion papers, dkt.24, 25):

Opposition of Jordan Jarvis and Dixon G. Kummer, Esq ("Respondents") (dkt. 30), Debtor's reply (dkt. 31), interim order (dkt. 32), Debtor's notice of errata (dkt. 34), as of the preparation of this tentative ruling no response has been filed by Jeff or Linda Jarvis.

Analysis:

(1) Background

Debtor moves for an order setting aside a state court default judgment and for damages arising from violations of the automatic stay under 11 U.S.C. 362(k). On 1/29/21, this Court entered an "Emergency Order: (1) Granting Partial Relief on Debtor's Motion to Set Aside Default Judgment on an Interim Basis, and (2) Directing Respondents to (I) Cease All Eviction Efforts and Related Acts, (II) Instruct Any Persons Aiding Them in Those Efforts to Cease all Such Efforts, and (III) Appear and Address the Stay Violation Issues and the Appropriate Amount of Damages" (dkt. 32, the "Interim Order"). The Interim Order sets forth the facts relevant to this dispute as well as the applicable law and this Court's interim findings and conclusions, which this Court incorporates by reference and will not repeat here. (Errata: This Court

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hereby corrects one non-material error in the Interim Order: the phrase "nearly a month later" (*id.*, p.2:27) is amended to read "over two months later.")

(2) The default judgment is void

For the reasons stated in the Interim Order, the tentative ruling is to confirm that the Default Judgment is void and of no legal effect because it was entered on 12/8/20 in violation of the automatic stay that was in effect as of the date of entry of the judgment. See Dkt. 25, Ex.3; see also *In re Wardrobe*, 559 F.3d 932, 934 (9th Cir. 2009) (judicial proceedings in violation of the automatic stay are also void); *In re Gruntz*, 202 F.3d 1074, 1082 (9th Cir. 2000) (*en banc*) ("actions taken in violation of the automatic stay are void. Further, '[j]udicial proceedings in violation of th[e] automatic stay are void.' . . . As the Supreme Court explained in *Kalb [v. Feuerstein]*, 308 U.S. 433, 443 (1940)], discussing the weaker predecessor statute to 11 U.S.C. § 362(a), '[b]ecause that State court had been deprived of all jurisdiction or power to proceed ... [all acts by creditor]-to the extent based upon the [State] court's actions-were all without authority of law.'" (citations omitted); *In re Schwartz*, 954 F.2d 569, 571 (9th Cir. 1992) ("It is well established that acts in violation of the automatic stay are void *ab initio* and have no force or effect").

(3) Debtor is entitled to recover damages arising from Respondents' willful violation of the automatic stay (11 U.S.C. § 362(k))

Section 362(k)(1) provides, "...an individual injured by any willful violation of a stay provided by this section shall recover actual damages, including costs and attorneys' fees, and, in appropriate circumstances, may recover punitive damages." 11 U.S.C. 362(k)(1).

A willful violation is satisfied if a party knew of the automatic stay, and that party's actions in violation of the automatic stay were intentional. *In re Bruel*, 533 B.R. 782, 787 (Bankr. C.D. Cal. 2015) (citation *Eksanos & Adler, P.C. v. Leetien*, 309 F.3d 1210, 1215 (9th Cir. 2002)). "Once a creditor has knowledge of the bankruptcy, it is deemed to have knowledge of the automatic stay." *Id.* Even if a party violates the stay inadvertently, once it becomes clear that a stay violation has occurred it is the duty of the party violating the stay to remedy the stay violation. *In re Stefani*, 2019 Bankr. LEXIS 481, at *21, 2019 WL 762661, at *8 (Bankr. S.D. Cal. Feb. 15, 2019) (citing *In re Roman*, 283 B.R. 1, 12 (9th Cir. BAP 2002) (creditor has the

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CONT... Socorro Evelina Garcia

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burden both to establish administrative safeguards to prevent stay violations and to restore the status quo by undoing them); *In re Dyer*, 322 F.3d 1178, 1192 (9th Cir. 2003) (knowledge of a stay violation created an "affirmative duty to remedy [the] automatic stay violation").

The tentative ruling is that Debtor's evidence is insufficient to establish that Respondents knew Debtor's bankruptcy case had been reinstated when they obtained the Default Judgment because the Certificate of Notice of the Order Reinstating the Case does not reflect service on Respondents (dkt. 21) and Debtor has not submitted any evidence establishing that Respondents received notice in some other way prior to 12/8/20 when the Default Judgment was entered.

But Respondents do not dispute that they were made aware of this Court's Order Reinstating Case on December 15, 2020 when Debtor's counsel e-mailed them to notify them that the Default Judgment was void as a violation of the automatic stay and to request that Respondents take steps to vacate the default judgment. Dkt. 25, Ex.4 & Dkt. 30, p.2:24-26. Therefore, the tentative ruling is that Debtor has shown by a preponderance of the evidence that Respondents had actual notice of Debtor's bankruptcy filing and of the automatic stay no later than December 15, 2020.

The tentative ruling is also that because the Default Judgment was void *ab initio* (*Schwartz*, 954 F.2d 569, 571), the real property that is the subject of that action is property of Debtor's bankruptcy estate and continues to be subject to the automatic stay. See 11 U.S.C. 362(a)(3), (6) and 541(a)(1). As a result, Respondents' efforts to enforce the Default Judgment were intentional, willful and in violation of the automatic stay. The tentative ruling, based on Debtor's unrefuted evidence, is that Respondents:

(a) failed to take any actions to have the Default Judgment vacated despite having an affirmative obligation to do so (dkt. 25, p.13:17-24; see also dkt. 30, p.3:5-13);

(b) engaged in efforts to lock out and evict Debtor and her daughter from the real property that is the subject of the Default Judgment by changing the locks and posting a 60-day notice to vacate and a notice of termination of tenancy for no-fault just cause (dkt. 25, pp. 13:25-14:3, 17:17-18:11 & Ex. 5, 8, 9);

(c) seized Debtor's and her daughter's personal property (dkt. 25, pp. 14:26-15:25 & 17:3-19:10); and

(d) threatened and harassed Debtor and her daughter with the specific

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Chapter 7

intent of trying to intimidate them to vacate the subject property and turn over full possession to Mr. Jarvis. Dkt. 25, pp. 14:4-25, 15:15-20 & Ex.6 & 7. (Debtor and her daughter also allege harassment of the boyfriend of Debtor's daughter, but there is no declaration from him, and although there is no hearsay objection this Court has discretion to require non-hearsay evidence even when respondents have failed to raise any hearsay objection. See Rule 55(b)(2), Fed. R. Civ. P. (incorporated by Rules 7055 & 9014(c), Fed. R. Bankr. P.))

(4) Damages

"The words 'shall recover' indicate that Congress intended that the award of actual damages, costs and attorney's fees be mandatory upon a finding of willful violation of the stay." *In re Ramirez*, 183 B.R. 583, 589 (9th Cir. BAP 1995) (internal citations omitted).

(a) Actual damages/Attorney's fees

Section 362(k)(1) is a fee-shifting statute that entitles debtor not only to attorney's fees and costs incurred in ending a stay violation, but also to fees and costs incurred in prosecuting an action for damages from a stay violation and in successful defending a damages award on appeal. *In re Schwartz-Tallard*, 803 F.3d 1095, 1099-1101 (9th Cir. 2015) (internal citations omitted); see also *In re Moon*, 2021 Bankr. LEXIS 27 at *10, 2021 WL 62629 at *10 (9th Cir. BAP Jan. 7, 2021) ("attorney's fees and costs are 'incurred' even when the plaintiff is not personally liable for them") (citations omitted).

In support of her motion and reply papers, Debtor submitted evidence establishing \$6,554 in damages as follows: (1) \$1,700 to prepare and file the Stay Violation Motion (dkt. 25, p.15:11-13); (2) \$500 to prepare and file her reply in support of the Stay Violation Motion and to file a notice of removal of the State Court Action (dkt. 31, p.6:13-15); (3) \$1,500 in attorney's fees incurred having to defend against Department of Real Estate complaint Mr. Jarvis filed against Debtor (dkt. 25, p.15:15-20); and (4) \$2,854 to reimburse Debtor's daughter and Debtor's daughter's boyfriend for theft of property that Debtor is responsible for reimbursing (dkt. 25, p.15:21-25).

The tentative ruling is that Debtor is entitled to an award of actual damages, including attorney's fees and costs, of \$6,554, payable jointly and severally by the Respondents.

(b) Emotional distress damages

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Socorro Evelina Garcia

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To be entitled to damages for emotional distress under section 362(k), an individual must (1) suffer a significant harm, (2) clearly establish the significant harm, and (3) demonstrate a causal connection between that harm and the violation of the automatic stay. *In re Dawson*, 390 F.3d 1139, 1148-49 (9th Cir. 2004). "Fleeting or trivial anxiety or distress does not suffice to support an award; instead, an individual must suffer significant emotional harm." *Id.* (citations omitted).

An individual may establish emotional distress damages in a number of ways, such as by providing corroborating medical evidence or by submitting testimony or declarations from family members, friends or coworkers. *Id.* at 1149-50. Additionally, in some cases, "significant emotional distress may be readily apparent even without corroborative evidence" such as instances where the violator has engaged in egregious conduct. *Id.* Alternatively, "even if the violation of the automatic stay was not egregious, the circumstances may make it obvious that a reasonable person would suffer significant emotional harm." *Id.*

In support of the Stay Violation Motion, Debtor submitted her declaration in which she states "Emotional Distress/Punitive; It is hard to measure these. However, the emotional impact has been tremendous, while myself and my family are being harassed no end. I believe that emotional distress punitive damages are warranted" Dkt. 25, p.15:27-16:2. The tentative ruling is that this is insufficient to warrant the imposition of emotional distress damages.

(c) Punitive damages

Section 362(k) authorizes an award of punitive damages "in appropriate circumstances." 11 U.S.C. 362(k)(1). "An award of punitive damages requires some showing of reckless or callous disregard for the law or rights of others" or "where the conduct is malicious, wanton, or oppressive." *In re Snowden*, 769 F.3d 651, 657 (9th Cir. 2014). "Courts have also imposed punitive damages for arrogant defiance of the automatic stay." *In re Stefani*, 2019 Bankr. LEXIS 481, at * 22-23, 2019 WL 762661, at *8 (Bankr. S.D. Cal. Feb. 15, 2019) (emphasis added) (citing *In re Jean-Francois*, 532 B.R. 449, 459 (Bankr. E.D.N.Y. 2015); *In re Diviney*, 211 B.R. 951 (Bankr. N.D. Okla. 1997)). "The Court in considering an award of punitive damages, thus, needs to find that the violator did more than violate the stay through mere negligence or inattention." *Id.* at *8. "The amount of a

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punitive damage award is also fact-specific and within the discretion of a Bankruptcy Court." *Id.* (citation omitted). In determining whether to impose punitive damages under [section] 362(k), bankruptcy courts have considered the nature of the creditor's conduct, the creditor's ability to pay, the motives of the creditor, any provocation by the debtor, and the creditor's level of sophistication." *Id.* (emphasis added).

The tentative ruling is that punitive damages are appropriate for several reasons. First, Respondents' refusal to remedy the stay violation is ongoing and intentional. Second, Respondents' three-page opposition is not supported by any citation to legal authority and Respondents do not even attempt to deny Debtor's allegations or refute Debtor's evidence with declarations or other evidence. Their papers reflect a complete indifference to educate themselves on applicable bankruptcy law and/or a willful and callous disregard of the automatic stay and this Court's authority. Third and finally, their willful stay violations are numerous and malicious—they have willfully refused to take steps to vacate the Default Judgment and instead have changed the locks and posted notices of eviction on the property, they have sent threatening and intimidating messages to Debtor and her family members and attempted to enforce prepetition claims against Debtor, with the additional apparent intent to destroy Debtor's ability to earn an income, by filing lawsuits against her and contacting her employer.

Respondents should be prepared to address whether there are any grounds why this Court should not impose **\$7,000** in punitive damages against them, jointly and severally, for their egregious behavior.

(5) Caveat

As always, tentative rulings are just that - tentative. In addition, this Court's Interim Order (dkt.32, p.6:10-12) prohibited any further briefing. All rights are reserved to argue why this Court should or should not permit further briefing. In addition, this Court has the power to order mandatory mediation of parties before it, and the parties should be prepared to address whether this Court should do so.

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

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required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Socorro Evelina Garcia

Represented By
Nathan A Berneman

Movant(s):

Socorro Evelina Garcia

Represented By
Nathan A Berneman

Trustee(s):

Elissa Miller (TR)

Pro Se

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2:20-18895 Bethany Senior Housing II, LP

Chapter 11

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

LOS ANGELES COUNTY TREASURER
AND TAX COLLECTOR
vs
DEBTOR

Docket 25

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 2.10, 2/9/21 at 2:00 p.m.).

Party Information

Debtor(s):

Bethany Senior Housing II, LP

Represented By
Simon J Dunstan

Movant(s):

Los Angeles County Treasurer and

Represented By
Jacquelyn H Choi

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2:20-18895 Bethany Senior Housing II, LP

Chapter 11

#2.10 Cont'd Status Conference re: Chapter 11 Case
fr. 10/27/20, 12/1/20, 1/26/21

Docket 1

Tentative Ruling:

Tentative Ruling for 2/9/21:

Appearances are not required.

(1) Current issues

(a) Creditor Los Angeles County Treasurer and Tax Collector's ("County") Motion for Relief from the Automatic Stay (dkt. 25), Debtor's Opposition (dkt. 29), County's Reply (dkt. 31).

Grant, for the reasons stated in County's papers.

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

(2) Deadlines/dates. This case was filed on 9/30/20.

(a) Bar date: 12/15/20 (dkt. 15; timely served, dkt. 17).

(b) Procedures order: dkt. 2 (notice at dkt. 16)

(c) Plan/Disclosure Statement: TBD (if relevant). See the **revised** "Procedures of Judge Bason" (available at www.cacb.uscourts.gov) (search for "Chapter 11: Plan").

(d) Continued status conference: 4/6/21 at 2:00 p.m. No written status report is required.

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

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[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Bethany Senior Housing II, LP

Represented By
Simon J Dunstan

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2:19-23664 Liat Talasazan

Chapter 7

#3.00 Hrg re: Debtor's Motion for an Order Disallowing Claim
Filed By Oxygen Funding, Inc. [Proof Of Claim No. 9]

Docket 474

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 8,
2/9/21 at 2:00 p.m.).

Party Information

Debtor(s):

Liat Talasazan

Represented By
Giovanni Orantes
Luis A Solorzano

Trustee(s):

Caroline Renee Djang (TR)

Pro Se

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#4.00 Cont'd hrg re: Motion for Authority to Obtain Credit Under Section 364(b), Rule 4001(c) or (d) Debtor's Second Motion For Order: 1. Approving Financing Pursuant To 11 U.S.C. §§ 364(c) & (d); And, 2. Approving Priming Liens Against Estate Property, fr. 12/22/20

Docket 390

Tentative Ruling:

Tentative Ruling for 2/9/21:

Please see the tentative ruling for the status conference (Calendar No. 8, 2/9/21 at 2:00 p.m.).

Tentative Ruling for 12/22/20:

Please see the tentative ruling for the status conference (Calendar No. 15, 12/22/20 at 1:00 p.m.).

Party Information

Debtor(s):

Liat Talasazan

Represented By
Giovanni Orantes
Luis A Solorzano

Movant(s):

Liat Talasazan

Represented By
Giovanni Orantes
Giovanni Orantes
Giovanni Orantes
Giovanni Orantes
Luis A Solorzano
Luis A Solorzano
Luis A Solorzano
Luis A Solorzano

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Trustee(s):

Caroline Renee Djang (TR)

Pro Se

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#5.00 Cont'd hrg re: Debtor's Second Motion For Reconsideration of (1) Order Granting In Part Motion For Turnover Of Property Of The Estate Pursuant to 11 U.S.C. § 542 (Docket No. 300); (2) Order Directing The United States Marshall to Evict Debtor And All Other Occupants of the 636 N. Laurel Property; And, (3) Order Converting Chapter 11 Case To One Under Chapter 7 fr. 12/22/20

Docket 402

Tentative Ruling:

Tentative Ruling for 2/9/21:

Please see the tentative ruling for the status conference (Calendar No. 8, 2/9/21 at 2:00 p.m.).

Tentative Ruling for 12/22/20:

Please see the tentative ruling for the status conference (Calendar No. 15, 12/22/20 at 1:00 p.m.).

Party Information

Debtor(s):

Liat Talasazan

Represented By
Giovanni Orantes
Luis A Solorzano

Movant(s):

Liat Talasazan

Represented By
Giovanni Orantes
Giovanni Orantes
Giovanni Orantes
Giovanni Orantes
Luis A Solorzano
Luis A Solorzano
Luis A Solorzano
Luis A Solorzano

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Trustee(s):

Caroline Renee Djang (TR)

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#6.00 Cont'd hrg re: Motion for Turnover of Property of
the Estate Pursuant to 11 U.S.C. § 542
fr. 9/15/20, 9/29/20, 10/27/20, 12/1/20, 12/22/20

Docket 280

Tentative Ruling:

Tentative Ruling for 2/9/21:

Please see the tentative ruling for the status conference (Calendar No. 8,
2/9/21 at 2:00 p.m.).

Tentative Ruling for 12/22/20:

Please see the tentative ruling for the status conference (Calendar No. 15,
12/22/20 at 1:00 p.m.).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Liat Talasazan

Represented By
Giovanni Orantes
Luis A Solorzano

Movant(s):

Caroline Renee Djang (TR)

Pro Se

Trustee(s):

Caroline Renee Djang (TR)

Pro Se

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#7.00 Cont'd hrg re: Emergency Motion for Order (1) Directing the United States Marshal or Other Appropriate Law Enforcement Agency to Evict the Debtor, Her Parents and/or Any and All Other Occupants From the Real Property Located at 636 N. Laurel Ave., Los Angeles, CA 90048; and (2) Issuing an Order to Show Cause Re Contempt
fr. 10/27/20, 12/1/20, 12/22/20

Docket 318

Tentative Ruling:

Tentative Ruling for 2/9/21:

Please see the tentative ruling for the status conference (Calendar No. 8, 2/9/21 at 2:00 p.m.).

Tentative Ruling for 12/22/20:

Please see the tentative ruling for the status conference (Calendar No. 15, 12/22/20 at 1:00 p.m.).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Liat Talasazan

Represented By
Giovanni Orantes
Luis A Solorzano

Movant(s):

Caroline Renee Djang (TR)

Pro Se

Trustee(s):

Caroline Renee Djang (TR)

Pro Se

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#8.00 Cont'd Status Conference re: Chapter 7 Case
fr. 1/28/20, 2/18/20, 3/3/20, 3/10/20, 03/31/20,
4/7/20, 5/12/20, 5/19/20, 6/2/20, 6/16/20, 7/28/20,
8/18/20, 9/1/20, 9/15/20, 9/29/20, 10/27/20, 12/1/20,
12/22/20

Docket 49

Tentative Ruling:

Tentative Ruling for 2/9/21:

Appearances required.

(1) Current issues

(a) Debtor's finance motion (dkt. 390, "Finance Motion") & supporting declarations (dkt. 391, 392, 394, 396, 397, 398, 399, 401, 410), notice of hearing (dkt. 404), proof of service (dkt. 406); Celtic Bank opposition (dkt. 415); Oxygen Funding opposition (dkt. 428); Trustee's joinder (dkt. 430); Michael Tremblay opposition (dkt. 433), East West Bank opposition (dkt. 444), Debtor's reply (dkt. 445)

This Court continued this hearing on the condition that Debtor satisfy certain requirements set forth in dkt. 456. First, the parties should be prepared to address whether Debtor has satisfied those requirements. Second, if so, the docket does not reflect any update that would make this latest proposed refinancing more realistic than Debtor's prior attempts, so the tentative ruling is to deny the motion without prejudice.

(b) Debtor's latest motion to reconsider Turnover Order [dkt. 300], Eviction Order [dkt. 333] and Conversion Order [dkt. 412] (dkt. 402, "Reconsideration Motion") & Orantes decl (dkt. 403), notice of hearing (dkt. 404), proof of service (dkt. 406), Celtic Bank's opposition (dkt. 416), Trustee's joinder (dkt. 423); Michael Tremblay's joinder (dkt. 432), Debtor's reply (dkt. 445)

This Court continued this hearing on the condition that Debtor satisfy certain requirements set forth in dkt. 456. First, the parties are directed to address whether Debtor has satisfied those requirements. Second, if so, the

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tentative ruling is that the docket does not reflect any developments that would create any sufficient cause for restoration of possession of the family home and/or reconversion of this bankruptcy case, despite Debtor's long history of a lack of progress toward paying creditors, violations of her duties, and violations of this Court's orders, including turnover orders.

(c) Subchapter V Trustee's motion for turnover of Laurel Property (dkt. 280), Debtor's opposition (dkt. 285), Michael Tremblay's response (dkt. 291), Interim Turnover Order (dkt. 300)

The parties are directed to update this Court on the status of this motion and address whether any additional relief is appropriate. The tentative ruling is to take this matter off calendar, without prejudice to the Chapter 7 Trustee placing it back on calendar on 14 days' notice. On the other hand, if continuance of this matter is appropriate, the tentative ruling is for such continuance to be concurrent with the continued status conference (see below, section "(2)(a)").

(d) Subchapter V Trustee's motion re eviction/contempt (dkt. 318, 319, the "Eviction/OSC Motion"), 319), Debtor & Orantes declarations (dkt. 320, 322), Orantes declaration (dkt. 322), Order shortening time (dkt. 323) and POS (dkt. 326), Trustee declaration (dkt. 328), Debtor & Orantes declarations & opposition (dkt. 329, 330, 331), Trustee's declaration re compensatory sanctions (dkt. 335), order imposing compensatory sanctions (dkt. 400)

The parties are directed to update this Court on the status of this motion and address whether any additional relief is appropriate. The tentative ruling is to take this matter off calendar, without prejudice to the Chapter 7 Trustee placing it back on calendar on 14 days' notice. On the other hand, if continuance of this matter is appropriate, the tentative ruling is for such continuance to be concurrent with the continued status conference (see below, section "(2)(a)").

(e) Debtor's objection to Oxygen Funding, Inc.'s proof of claim (dkt. 474, 475, 476), Oxygen's opposition (dkt. 493), Debtor's reply (dkt. 500)

The tentative ruling is to deny the objection, without prejudice, for the procedural reasons stated in sections II.A & II.B of the opposition (dkt. 493) - namely, that an adversary proceeding is required, and that Debtor's cost/benefit analysis is unpersuasive. This Court adds that Debtor's claim

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objection appears to this Court to be nothing more than an impermissible collateral attack on this Court's order staying her pending adversary proceeding. Alternatively, even if this Court were to construe Debtor's claim objection as a motion for reconsideration of this Court's order staying the adversary proceeding (under Rule 9024, Fed. R. Bankr. P.), that motion would be unpersuasive.

There is no showing of any newly discovered evidence or other grounds for reconsideration. In addition, the same analysis that led this Court to stay the adversary proceeding continues to apply. Either (i) Debtor lacks standing, if this chapter 7 bankruptcy estate is insolvent, or alternatively (ii) if the estate is solvent then Oxygen's claim will be paid in full anyway, regardless whether that claim is secured or unsecured, so there does not appear to be any point in pursuing the claim litigation at this time.

Debtor incorrectly asserts that unsecured creditors have "no right under the [Bankruptcy] Code to accrue interest post-petition." Dkt.474, p.4:24. Interest is payable under 11 U.S.C. 726(a)(5).

True, the *rate* of interest might be different, but Debtor has not shown how that makes a *sufficient* difference to warrant the expense of her proposed litigation. In other words, assuming for the sake of discussion that the bankruptcy estate is solvent, there is a risk that it will become insolvent if expensive litigation were to be pursued, because of Debtor's attorney fees, or because of Oxygen's attorney fees (if it were to be successful), or both.

Debtor argues in the alternative that pursuing her claim litigation is appropriate because otherwise Oxygen can "block the refinancing" that she hopes to obtain. Dkt.474, p.5:4. But, as this Court has pointed out before, the Bankruptcy Code has tools to overcome any attempt by a lienholder to block a refinancing or sale if such refinancing or sale are warranted under all the facts and circumstances. See, e.g., 11 U.S.C. 363(f), 364(d).

In other words, Debtor has not established that the problem with any refinancing is Oxygen's (asserted) lien. The problem is that Debtor has yet to present any realistic refinancing or other options.

In sum, Debtor's claim objection appears to be an attempted end-run around this Court's order staying her adversary proceeding, which is barred as a collateral attack on that order. Alternatively, if Debtor's papers were construed as a motion for reconsideration, the same concerns that led this Court to stay that adversary proceeding apply to the claim objection. Pursuing either type of litigation at this time appears to be a waste of time and

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money for the estate, Oxygen, and all other parties in interest. Counsel for Debtor is cautioned against further attempts at collaterally attacking this Court's orders.

(f) Talasazan v. Oxygen Funding, Inc., et al (2:20-ap-01027-NB), joint status report (adv. dkt. 41)

On 9/15/20, this Court ordered this matter stayed and continued the hearing to this date to allow time for the Chapter 7 trustee to evaluate the merits of the claims and determine how to proceed. The trustee should be prepared to address where things stand with this litigation.

(g) Motion of Debtor's counsel to be relieved (dkt.492); Opposition of United States Trustee (dkt.501); Joinder of Chapter 7 Trustee (dkt.502)

Should this Bankruptcy Court set a hearing on this motion?

(h) Motion of Tremblay Trust for relief from automatic stay (the "Tremblay R/S Motion," dkt.9, 93), Opposition (dkt.95, 96, 129, 138), and Status Report/supplement (dkt.503)

The Tremblay Trust points out that this Court's order continuing the automatic stay (dkt.46) granted that relief only until further order of this Court, and included a caution to Debtor that lack of proper prosecution of this case could lead to further relief. It also notes that this Court has found a lack of proper prosecution and bad faith by Debtor; it points out that the liens asserted against the Laurel Avenue property exceed the offers received by the Chapter 7 Trustee; and it reports that Celtic Bank has not agreed to a short sale. The parties are directed to address whether this Court should place the Tremblay R/S Motion back on calendar.

Proposed orders: The Trustee is directed to lodge proposed orders reflecting any other disposition of the above items beyond mere continuance, and attach relevant portions of this tentative ruling, via LOU within 7 days after the hearing date, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 11/20/19, converted from chapter 13 to chapter 11 on 1/2/20, designated by Debtor as a Subchapter V case on 3/2/20 (dkt.128), and converted to chapter 7 on 12/1/20 (dkt. 412).

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(a) Continued status conference: 3/9/21 at 1:00 p.m. No written status report required.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED (see Memorialization of Tentative Rulings, dkt.208 (filed 5/19/20) and dkt.303 (filed 9/21/20). See also Order Denying Motion for Stay (dkt.441, as amended by dkt.442).]

Party Information

Debtor(s):

Liat Talasazan

Represented By
Giovanni Orantes
Luis A Solorzano

Trustee(s):

Caroline Renee Djang (TR)

Pro Se

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Adv#: 2:20-01027 Talasazan v. Oxygen Funding, Inc. et al

- #9.00** Cont'd Status Conference re: Complaint for Damages, Declaratory Relief and Injunctive Relief for 1.) Violation of Automatic Stay; 2.) Turnover Under 11 U.S.C. Section 542; 3) Avoidance of Transfer Under 11 U.S.C. Section 544; 4) Avoidance of Fraudulent Transfer Under 11 U.S.C. Section 548; 5) Recovery and Preservation of Avoided Transfers Pursuant to 11 U.S.C. Sections 550(a), 551; 6) Unfair Practices under California Business & Professions Code Section 17200; and 7) Slander of Title
fr. 4/21/20, 9/15/20, 12/22/20

Docket 1

Tentative Ruling:

Tentative Ruling for 2/9/21 (same as for 12/22/20, except dates):

This matter remains stayed, per this Court's oral ruling at the status conference on 9/15/20. Please see the tentative ruling for the main case status conference (Calendar No. 8, 2/9/21 at 2:00 p.m.).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 9/15/20:

Appearances required.

This Court has reviewed the parties' joint status report (dkt. 37) and the other

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filed documents and records in this adversary proceeding.

Current issues

(a) Apparent waste of resources and/or unwillingness to prosecute

This Court continues to have serious concerns why it makes any sense for Debtor to dispute the alleged security interest of Oxygen Funding, Inc. when (i) Debtor continues to assert that all creditors will be paid 100% of their allowed claims regardless whether those claims are or are not secured by any collateral, (ii) the Bankruptcy Code includes many tools to assure that disputed security interests do not block attempted refinancings, sales, or other uses of estate property (see, e.g., 11 U.S.C. 363(f), 1129(b)(1)), and (iii) the expense of this litigation to the bankruptcy estate appears very likely to exceed any possible future benefits (*but cf.* dkt.282 re unauthorized funding of Debtor's counsel by non-debtor husband). At prior hearings this Court was persuaded not to take any action on the foregoing concerns, pending mediation, but the parties report (adv.dkt.37) that mediation was unsuccessful.

Conversely, assuming for the sake of discussion that for some reason would make any sense to pursue this litigation, Debtor/Plaintiff appears to be unwilling to prosecute it unless and until she can obtain a different forum. She states, in the parties' joint status report (adv.dkt.37, p.4, para.G) that she will seek dismissal of this bankruptcy case and then pursue this litigation in State Court.

The parties are directed to address whether this Court should (i) stay this litigation indefinitely, pending the results of attempts by Debtor and the Subchapter V Trustee to sell or refinance the "Laurel" property, or confirm a chapter 11 plan, or implement other means of restructuring Debtor's finances, (ii) dismiss this adversary proceeding for lack of prosecution if Debtor/Plaintiff does not prosecute it pursuant to the deadlines tentatively set forth below, or (iii) establish some other deadlines or procedures regarding this matter.

(A) Standard requirements

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

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(1) Venue/jurisdiction/authority

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (docket numbers 26, 37)

(2) Mediation [Intentionally omitted]

(3) Deadlines

This adversary proceeding has been pending since 2/10/20. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Joinder of parties/amendment of pleadings: 10/30/20 deadline.

Discovery cutoff (for completion of discovery): 11/13/20.

Expert(s) - deadline for reports: 11/20/20

Expert(s) - discovery cutoff (if different from above): 11/20/20

Dispositive motions to be heard no later than: 12/22/20

Joint Status Report: 12/8/20

Continued status conference: 12/22/20 at 1:00 p.m.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: TBD

Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, all appearances are telephonic via CourtCall at (888) 882-6878.

Party Information

Debtor(s):

Liat Talasazan

Represented By

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

Tuesday, February 9, 2021

Hearing Room 1545

2:00 PM

CONT... Liat Talasazan

Chapter 7

Giovanni Orantes
Luis A Solorzano

Defendant(s):

Oxygen Funding, Inc.

Represented By
Vonn Christenson

Adam Landis Lomax

Represented By
Vonn Christenson

Plaintiff(s):

Liat Talasazan

Represented By
Luis A Solorzano
Giovanni Orantes

Trustee(s):

Caroline Renee Djang (TR)

Pro Se

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

Thursday, February 11, 2021

Hearing Room 1545

10:00 AM

2:00-00000

Chapter

#0.00 ZoomGov Instructions for all matters on today's calendar:

Meeting ID: 161 594 9061

Password: 400004

Meeting URL: <https://cacb.zoomgov.com/j/1615949061>

Telephone: +1 669 254 5252 or +1 646 828 7666 or 833 568 8864 (Toll Free)

Please connect at least 5 minutes before the start of your hearing, and wait with your microphone muted until your matter is called. You do not need to call Chambers for advance approval. ZoomGov appearances are free.

Docket 0

Tentative Ruling:

- NONE LISTED -

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

Thursday, February 11, 2021

Hearing Room 1545

10:00 AM

2:19-18316 Ashley Susan Aarons

Chapter 11

#1.00 Cont'd hrg re: U.S. Trustee's Motion to Dismiss or Convert Case
fr. 10/15/19, 10/29/19, 12/10/19, 1/14/20, 03/31/20, 4/7/20,
4/21/20, 5/5/20, 6/16/20, 6/30/20, 8/4/20, 9/29/20, 10/14/20,
10/23/20, 11/12/20, 12/8/20, 12/22/20, 1/5/21, 1/26/21, 2/4/21

Docket 65

Tentative Ruling:

Tentative Ruling for 2/11/21:

Please see the tentative ruling for the status conference (Calendar No. 3,
2/11/21 at 10:00 a.m.).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Ashley Susan Aarons

Represented By
James C Bastian Jr
Rika Kido

Movant(s):

United States Trustee (LA)

Represented By
Dare Law
Alvin Mar
Ron Maroko

Trustee(s):

John-Patrick McGinnis Fritz (TR)

Pro Se

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

Thursday, February 11, 2021

Hearing Room 1545

10:00 AM

2:19-18316 Ashley Susan Aarons

Chapter 11

#2.00 Cont'd hrg re: Plan Confirmation and Related Deadlines
fr. 9/29/20, 10/14/20, 10/23/20, 11/12/20, 12/8/20, 12/22/20,
1/5/21, 1/26/21, 2/4/21

Docket 313

Tentative Ruling:

Tentative Ruling for 2/11/21:

Please see the tentative ruling for the status conference (Calendar No. 3,
2/11/21 at 10:00 a.m.).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Ashley Susan Aarons

Represented By
James C Bastian Jr
Rika Kido

Trustee(s):

John-Patrick McGinnis Fritz (TR)

Pro Se

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

Thursday, February 11, 2021

Hearing Room 1545

10:00 AM

2:19-18316 Ashley Susan Aarons

Chapter 11

#3.00 Cont'd status conference re: Chapter 11 Case
fr. 8/20/19, 9/24/19, 10/4/19, 10/15/19, 10/29/19,
11/12/19, 12/10/19, 1/14/20, 03/31/20, 4/7/20,
4/21/20, 5/5/20, 6/16/20, 6/30/20, 8/4/20, 9/29/20,
10/14/20, 10/22/20, 11/12/20, 12/8/20, 12/22/20,
1/5/21, 1/26/21, 2/4/21

Docket 1

Tentative Ruling:

Tentative Ruling for 2/11/21:
Appearances required.

(1) Current issues

(a) Motion of the U.S. Trustee ("UST") to dismiss (dkt. 65, "MTD"), Debtor's opposition (dkt. 86), UST's reply (dkt. 168, 170), Debtor's response (dkt. 179), Debtor's status report (dkt. 180), stipulation and order re pre-petition bank account (dkt. 212, 221)

The outcome of this motion may depend on whether this Court confirms Debtor's amended plan.

(b) Debtor's motion to approve non-material modifications to chapter 11 plan (dkt. 383, "Plan Modification Motion"), oppositions to be made orally

The tentative ruling is to grant the motion, subject to any opposition at the hearing.

(b) Debtor's Amended plan (dkt. 313) (see also Disclosure Statement, dkt. 311), order setting confirmation hearing (dkt. 317), proof of service of solicitation package (dkt. 324), Debtor's confirmation brief (dkt. 329), ballot summary (dkt. 330), objection of Post Acute Care Partners, Inc. ("Post") (dkt. 332), objection of Shiv Raj & Saroj Gupta ("Guptas") (dkt. 333), Debtor's Reply (dkt. 335), Debtor's supplemental brief (dkt. 369), Guptas' supplemental response (dkt. 372), supplemental response of Verus Securitization Trust 2020-NPL1 ("Verus"), as successor to Patch of Land et al. (dkt. 373), Debtor's supplemental reply (dkt. 374), Debtor's supplemental declarations

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Thursday, February 11, 2021

Hearing Room 1545

10:00 AM

CONT... Ashley Susan Aarons
(dkt. 375, 376)

Chapter 11

There is no tentative ruling. The outcome of these matters may depend on how this Court rules on the Plan Modification Motion.

(3) Deadlines/dates. This case was filed on 7/17/19.

(a) Bar date: 12/20/19, dkt. 116 (timely served, dkt. 120)

(b) Procedures order: dkt.9 (timely served, dkt.18)

(c) AmPlan/AmDisclosure Statement*: See above.

(d) Continued status conference: If the disclosure statement is approved on a final basis, and if the plan is confirmed, then this Court anticipates setting a post-confirmation status conference for 4/6/21 at 2:00 p.m. On the other hand, if there are unresolved confirmation issues, this Court anticipates setting either a continued hearing/status conference and/or a further evidentiary hearing (at a date and time to be determined).

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

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 2/4/21:
Appearances required.

(1) Current issues

(a) Motion of the U.S. Trustee ("UST") to dismiss (dkt. 65, "MTD"), Debtor's opposition (dkt. 86), UST's reply (dkt. 168, 170), Debtor's response

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Thursday, February 11, 2021

Hearing Room 1545

10:00 AM

CONT... Ashley Susan Aarons

Chapter 11

(dkt. 179), Debtor's status report (dkt. 180), stipulation and order re pre-petition bank account (dkt. 212, 221)

The outcome of this motion may depend on whether this Court confirms Debtor's amended plan.

(b) Debtor's Amended plan (dkt. 313) (see also Disclosure Statement, dkt. 311), order setting confirmation hearing (dkt. 317), proof of service of solicitation package (dkt. 324), Debtor's confirmation brief (dkt. 329), ballot summary (dkt. 330), objection of Post Acute Care Partners, Inc. ("Post") (dkt. 332), objection of Shiv Raj & Saroj Gupta ("Guptas") (dkt. 333), Debtor's Reply (dkt. 335), Debtor's supplemental brief (dkt. 369), Guptas' supplemental response (dkt. 372), supplemental response of Verus Securitization Trust 2020-NPL1 ("Verus"), as successor to Patch of Land et al. (dkt. 373), Debtor's supplemental reply (dkt. 374), Debtor's supplemental declarations (dkt. 375, 376)

There is no tentative ruling. The parties are directed to appear and address whether Debtor's supplemental declarations (dkt. 375, 276) provide sufficient evidence of feasibility, sufficient "new value" to satisfy the "new value corrolary" (aka "exception") to the absolute priority rule, good faith, and the other elements required for confirmation (see prior tentative rulings, reproduced below, on those issues). Debtor should be prepared to provide an update on the status of the Florida receivership.

Regarding the "new value" issues, please note the following excerpt from the posted "Procedures of Judge Bason" (available at www.cacb.uscourts.gov):

§ 1129(b)(2)(B)(ii): absolute priority rule. The judge previously has made the following, both orally and in writing. *See In re Lytle* (Case No. 2:20-bk-12166-NB), dkt. 113. First, although this Court has an independent duty to examine the elements of cramdown under § 1129(a)(1) (*cf. United States v. Espinosa*, 130 S.Ct. 1367, 1378-80 (2010) (duty under parallel provisions of 11 U.S.C. 1325(a)(1))), a class of creditors can waive or forfeit the requirements of the absolute priority rule, so if there is no objection to confirmation and the plan meets the minimum requirements for cramdown then

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Ashley Susan Aarons

Chapter 11

confirmation of the plan is appropriate. *Cf. In re Hamer*, 138 S.Ct. 13, 17 n.1 (2017) (distinguishing forfeiture and waiver); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (holding, in different context, that consent need not be express); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (same, and analyzing presumed consent). Second, when cramdown is required under § 1129(a)(10) & (b) it is subject to the "new value" "exception" (corrolary) to the absolute priority rule (typically an individual debtor would contribute cash from an exempt retirement account, or from a relative or friend). Third, new value must be (among other things) "reasonably equivalent to the value or interest received" (*In re Bonner Mall P'ship*, 2 F.3d 899, 908 (9th Cir. 1993) (citations omitted)) but by definition \$0 is "reasonably equivalent" to whatever residual value exists in *fully encumbered* property (which is what debtors often retain). Fourth, however, new value must be "necessary" and "substantial" (*id.*), which requires whatever cash is "necessary" to the success of the proposed reorganization, as opposed to a "token" cash infusion. *In re Snyder*, 967 F.2d 1126, 1131-32 (7th Cir. 1992) (cited in *Bonner Mall*, 2 F.3d at 908). When a debtor is devoting all or almost all disposable income to the plan then it may be "necessary" for feasibility (§ 1129(a)(11)) to have a cash infusion to cover the type of unanticipated emergency expenses that typically arise, and the judge has accepted this as "substantial" new value even if it does not increase the dividend to unsecured creditors. Note: the judge has questioned, but not ruled on, whether "bids or competing plans" are required, or what that would mean as applied to property that an individual debtor is entitled to exempt. *Compare Bank of Am. Nat. Trust and Sav. Assn. v. 203 North LaSalle St. P'ship*, 526 U.S. 434, 454-58 (1999) (limited partnership, not invidual, bankruptcy case); *Zachary v. California Bank & Trust*, 811 F.3d 1191 (9th Cir. 2016) (individual case, but not addressing that issue). *See also In re Ambanc La Mesa L.P.*, 115 F.3d 650, 656-657 (9th Cir. 1997) (not deciding among various ways to measure if contribution is "substantial," but holding that \$32,000 contribution, less than 0.5%

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Thursday, February 11, 2021

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CONT...

Ashley Susan Aarons

Chapter 11

of unsecured debt, was *de minimus* as a matter of law). *See also In re Green Pharmaceuticals, Inc.*, 617 B.R. 131 (Bankr. C.D. Cal. 2020) (court may consider other circumstances, such as how much debtor is paying for insiders' auto and life insurance).

- (3) Deadlines/dates. This case was filed on 7/17/19.
- (a) Bar date: 12/20/19, dkt. 116 (timely served, dkt. 120)
 - (b) Procedures order: dkt.9 (timely served, dkt.18)
 - (c) AmPlan/AmDisclosure Statement*: See above.
 - (d) Continued status conference: If the disclosure statement is approved on a final basis, and if the plan is confirmed, then this Court anticipates setting a post-confirmation status conference for 4/6/21 at 2:00 p.m. On the other hand, if there are unresolved confirmation issues, this Court anticipates setting either a continued hearing/status conference and/or a further evidentiary hearing (at a date and time to be determined).
- *Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 1/26/21:
Appearances required.

- (1) Current issues
- (a) Motion of the U.S. Trustee ("UST") to dismiss (dkt. 65, "MTD"),

**United States Bankruptcy Court
Central District of California
Los Angeles
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CONT... Ashley Susan Aarons

Chapter 11

Debtor's opposition (dkt. 86), UST's reply (dkt. 168, 170), Debtor's response (dkt. 179), Debtor's status report (dkt. 180), stipulation and order re pre-petition bank account (dkt. 212, 221)

The outcome of this motion may depend on whether this Court confirms Debtor's amended plan.

(b) Debtor's Amended plan (dkt. 313) (see also Disclosure Statement, dkt. 311), order setting confirmation hearing (dkt. 317), proof of service of solicitation package (dkt. 324), Debtor's confirmation brief (dkt. 329), ballot summary (dkt. 330), objection of Post Acute Care Partners, Inc. ("Post") (dkt. 332), objection of Shiv Raj & Saroj Gupta ("Guptas") (dkt. 333), Debtor's Reply (dkt. 335), Debtor's supplemental brief (dkt. 369), Guptas' supplemental response (dkt. 372), supplemental response of Verus Securitization Trust 2020-NPL1 ("Verus"), as successor to Patch of Land et al. (dkt. 373), Debtor's supplemental reply (dkt. 374)

The tentative ruling is that if Debtor can provide evidence, or an offer of proof, regarding removal of the appraisal contingency on the JSS Financial refinancing (see dkt.374, p.5:5-7), the imminent payment of Verus, and the alleged commitment of Janet Sexton to contribute \$45,000, then Debtor will have presented sufficient evidence of feasibility, sufficient "new value" to satisfy the "new value corollary" (aka "exception") to the absolute priority rule, good faith, and the other elements required for confirmation. Although some significant uncertainties remain, and although it is possible that nonpriority unsecured creditors would receive a greater recovery in some scenarios, it is more likely on the present record that they would receive less in most scenarios, and as a matter of law Debtor is only required to show that the plan's treatment of non-consenting impaired classes is "fair and equitable" and does not discriminate unfairly - not that the plan is the best of all possible outcomes.

(3) Deadlines/dates. This case was filed on 7/17/19.

(a) Bar date: 12/20/19, dkt. 116 (timely served, dkt. 120)

(b) Procedures order: dkt.9 (timely served, dkt.18)

(c) AmPlan/AmDisclosure Statement*: See above.

(d) Continued status conference: If there are unresolved confirmation issues, this Court anticipates setting either a continued hearing/status conference on 3/2/21 at 2:00 p.m. and/or a

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CONT...

Ashley Susan Aarons

Chapter 11

further evidentiary hearing (at a date and time to be determined).

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

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[Tentative Rulings omitted for 10/6/20 [continued per dkt. 339], 10/14/20, 10/22/20, 11/12/20, 12/8/20, 12/22/20 [continued with no change], and 1/5/21.]

Tentative Ruling for 9/29/20:

Appearances required.

(1) Current issues

(a) Motion of the U.S. Trustee ("UST") to dismiss (dkt. 65, "MTD"), debtor's opposition (dkt. 86), UST's reply (dkt. 168, 170), debtor's response (dkt. 179), debtor's status report (dkt. 180), stipulation and order re pre-petition bank account (dkt. 212, 221)

There is no tentative ruling. The outcome of this motion may depend on whether this Court confirms Debtor's amended plan.

(c) Debtor's Amended plan (dkt. 313) (see also Disclosure Statement, dkt. 311), order setting confirmation hearing (dkt. 317), proof of service of solicitation package (dkt. 324), Debtor's confirmation brief (dkt. 329), ballot summary (dkt. 330), objection of Post Acute Care Partners, Inc. ("Post") (dkt.

**United States Bankruptcy Court
Central District of California
Los Angeles
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Thursday, February 11, 2021

Hearing Room 1545

10:00 AM

CONT... Ashley Susan Aarons

Chapter 11

332), objection of Shiv Raj & Saroj Gupta ("Guptas") (dkt. 333), Debtor's Reply (dkt. 335)

The tentative ruling is that (x) Debtor has adequately addressed Post's objection; (y) Debtor has adequately addressed the non-materiality of her proposed minor modifications to the Plan (*i.e.*, re-balloting is not required); and (z) Debtor has provided sufficient arguments and evidence to overrule most of the Guptas' objections. The Guptas' objections that Debtor has not yet sufficiently addressed are explained below.

(A) Best Interest Test (11 U.S.C. 1129(a)(7)): Debtor's calculations require an adjustment, but even with an adjustment the Guptas have not rebutted Debtor's showing that the Plan satisfies the best interest test

The tentative ruling is that Debtor's alternative liquidation analysis (dkt.335, pp.11-12) should be adjusted to account for the possibility that the secured claim asserted by Patch Of Land ("Patch" or "POL") might be reduced to some extent, based on objections to default interest and other claims by the bankruptcy estate. But the tentative ruling - based on this Court's familiarity with numerous disputes in other cases regarding default rates of interest and other charges - is that the possibility of such reduction, discounted to present value, is less than shortfall in funds that would be available in any hypothetical chapter 7 case. See Debtor's Reply (dkt.335), p.12. See generally, *e.g.*, *East-West Bank v. Altadena Lincoln Crossing, LLC*, 598 B.R. 633 (C.D. Cal. 2019)

The tentative ruling is that a precise dollar estimate is not required because the shortfall is hundreds of thousands of dollars; the discount to Patch's claim would not be greater than that. In other words, even with the adjustment to Patch's claim as described above, there would be \$-0- for general unsecured creditors in a hypothetical chapter 7 case.

Alternatively, assuming for the sake of discussion that any adjustments to Debtor's liquidation analysis would be enough to provide any projected recovery for nonpriority unsecured creditors, that in itself does not establish that liquidation would be in the best interests of creditors. Rather, the issue would require further evidence because any such projected chapter 7 recovery still would have to exceed the projected recovery under Debtor's proposed Plan, and the latter requires more evidence (as noted below).

(B) Adequate means for implementation (11 U.S.C. 1123(a)(5))

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Thursday, February 11, 2021

Hearing Room 1545

10:00 AM

CONT... Ashley Susan Aarons

Chapter 11

and feasibility (11 U.S.C. 1129(a)(11))

Debtor is directed to address whether she has evidence of sufficient loan commitments and/or gift commitments from family and friends to make her proposed commitments in the Plan adequate and feasible. See, e.g., Debtor's Reply (dkt.335), p.14:2-8. The parties are directed to address whether any evidentiary hearing will be necessary to address the sufficiency of such evidence, and the possible scheduling of any such evidentiary hearing and any related matters.

(2) Deadlines/dates. This case was filed on 7/17/19.

(a) Bar date: 12/20/19, dkt. 116 (timely served, dkt. 120)

(b) Procedures order: dkt.9 (timely served, dkt.18)

(c) AmPlan/AmDisclosure Statement*: See above.

(d) Continued status conference: If there are unresolved confirmation issues, this Court anticipates setting either a continued hearing/status conference on 10/6/20 at 2:00 p.m. and/or an evidentiary hearing (at a date and time to be determined). Alternatively, if the Plan were to be confirmed at today's hearing, the tentative ruling would be to set a post-confirmation status conference for 1/12/21 at 2:00 p.m.

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

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, all appearances are telephonic via CourtCall at (888) 882-6878.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

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

Thursday, February 11, 2021

Hearing Room 1545

10:00 AM

CONT... Ashley Susan Aarons

Chapter 11

Debtor(s):

Ashley Susan Aarons

Represented By
James C Bastian Jr
Rika Kido

Trustee(s):

John-Patrick McGinnis Fritz (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Thursday, February 11, 2021

Hearing Room 1545

10:00 AM

2:19-18316 Ashley Susan Aarons

Chapter 11

#4.00 Hrg re: Debtor's Motion to Approve Non-Material
Modifications to Chapter 11 Plan Dated August 7, 2020

Docket 383

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 3,
2/11/21 at 10:00 a.m.).

Party Information

Debtor(s):

Ashley Susan Aarons

Represented By
James C Bastian Jr
Rika Kido

Trustee(s):

John-Patrick McGinnis Fritz (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Thursday, February 11, 2021

Hearing Room 1545

11:00 AM

2:18-12429 Dana Hollister

Chapter 11

#1.00 Hrg re: Motion for Order Authorizing Use of Not
More Than \$25,000 for Deposition Costs and
Expert Witness Fees

Docket 1339

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 2,
2/11/21 at 11:00 a.m.).

Party Information

Debtor(s):

Dana Hollister

Represented By
David A Tilem
Mark A Kressel
Alan M Insul

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Thursday, February 11, 2021

Hearing Room 1545

11:00 AM

2:18-12429 Dana Hollister

Chapter 11

#2.00 Cont'd Status Conference re: Chapter 11 Case
fr. 3/9/18, 3/20/18, 3/21/18, 4/17/18, 5/3/18, 5/7/18,
6/12/18, 6/22/18, 7/16/18, 8/3/18, 9/4/18, 11/6/18,
01/15/19, 1/29/19, 2/26/19, 3/26/19, 4/16/19;
04/29/19, 05/21/19, 5/28/19, 6/18/19, 7/2/19; 08/06/19,
10/15/19, 11/12/19, 11/21/19, 01/14/20, 3/3/20, 3/10/20,
04/07/20, 5/19/20, 6/16/20, 6/30/20, 7/14/20, 7/28/20,
8/4/20, 09/15/20, 10/27/20, 12/8/20, 1/26/21

Docket 1

Tentative Ruling:

Tentative Ruling for 2/11/21:
Appearances required.

(1) Current issues

(a) Motion for Order Authorizing Use of not more than \$25,000 for Deposition Costs and Expert Witness Fees (dkt. 1339); Application for Order Setting Hearing on Shortened Notice (dkt. 1340); Order Provisionally Granting Application and Setting Hearing on Shortened Notice (dkt. 1341).

There is no tentative ruling, but the parties should be prepared to address the issues raised in the Order Provisionally Granting Application and Setting Hearing on Shortened Notice (dkt. 1341) and the Motion for Order Authorizing Use of not more than \$25,000 for Deposition Costs and Expert Witness Fees (dkt. 1339).

(2) Deadlines/dates. This case was filed on 3/6/18.

(a) Bar date: 8/24/18 (dkt. 367, timely served per dkt. 383)

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 2/25/21 at 2:00 p.m., to be held contemporaneously with other matters in this case. No written status report required.

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

(d) Limited Notice: A "Core Service List" has been established (see

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

Thursday, February 11, 2021

Hearing Room 1545

11:00 AM

CONT...

Dana Hollister

Chapter 11

dkt.97, p.3:4-17, dkt.195), as modified by any updates (contact Debtor for latest list).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Dana Hollister

Represented By
David A Tilem
Mark A Kressel
Alan M Insul

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

Tuesday, February 16, 2021

Hearing Room 1545

10:00 AM

2:00-00000

Chapter

#0.00 ZoomGov Instructions for all matters on today's calendar:
Meeting ID: 160 942 0586
Password: 683617
Meeting URL: <https://cacb.zoomgov.com/j/1609420586>
Telephone: +1 669 254 5252 or +1 646 828 7666 or 833 568 8864 (Toll Free)

Docket 0

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

Tuesday, February 16, 2021

Hearing Room 1545

10:00 AM

2:18-15559 R44 LENDING GROUP, LLC a Delaware Limited Liabilit

Chapter 11

#1.00 Hrg re: Confirmation of Chapter 11 Plan
fr. 6/12/18, 6/26/18, 08/07/18, 10/9/18, 11/6/18, 12/11/18,
03/12/19, 3/26/19, 5/14/19, 6/11/19, 07/02/19, 7/30/19,
9/17/19, 11/12/19, 12/17/19, 03/10/20, 6/16/20, 8/18/20,
09/29/20, 11/10/20

Docket 5

Party Information

Debtor(s):

R44 LENDING GROUP, LLC a

Represented By
Jeffrey S Shinbrot

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

Tuesday, February 16, 2021

Hearing Room 1545

10:00 AM

2:18-15559 R44 LENDING GROUP, LLC a Delaware Limited Liabilit Chapter 11

#2.00 Cont'd Status Conference re: Chapter 11 Case
fr. 6/12/18, 6/26/18, 08/07/18, 10/9/18, 11/6/18,
12/11/18, 03/12/19, 3/26/19, 5/14/19, 6/11/19,
7/2/19, 7/30/19, 9/17/19, 11/12/19, 12/17/19,
3/10/20, 6/16/20, 8/18/20, 9/29/20, 11/10/20,
12/8/20

Docket 5

Party Information

Debtor(s):

R44 LENDING GROUP, LLC a

Represented By
Jeffrey S Shinbrot

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

Thursday, February 18, 2021

Hearing Room 1545

8:30 AM
2:00-00000

Chapter

#0.00 ZoomGov Instructions for all matters on today's calendar:

Meeting URL: <https://cacb.zoomgov.com/j/1610787999>
Meeting ID: 161 078 7999
Password: 657504
Telephone: +1 669 254 5252 or +1 646 828 7666 or 833 568 8864 (Toll Free)

Please connect at least 5 minutes before the start of your hearing, and wait with your microphone muted until your matter is called. You do not need to call Chambers for advance approval. ZoomGov appearances are free.

Time when these tentative rulings were first posted (for purposes of determining when anyone contesting the tentative ruling must notify other parties of intent to do so, per the "Procedures of Judge Bason," posted at www.cacb.uscourts.gov): 2/17/21 at 9:19 a.m.

Docket 0

Tentative Ruling:

- NONE LISTED -

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

Thursday, February 18, 2021

Hearing Room 1545

8:30 AM

2:16-10308 Ramona Ann Brown

Chapter 13

#1.00 Hrg re: Motion under Local Bankruptcy Rule 3015-1
(n) and (w) to modify plan or suspend plan payments

Docket 89

Tentative Ruling:

Appearances required. Debtor is directed to address the issues raised by the Chapter 13 Trustee (dkt. 95) and whether Debtor's response (dkt. 103) sufficiently addresses the Trustee's concerns.

On the one hand, Debtor's age, retirement status, extremely modest budget, and increases in monthly mortgage payments all favor some leeway in permitting Debtor's proposed modification of her confirmed chapter 13 plan. On the other hand, this Court is concerned that Debtor's math (and her allegations) do not entirely "add up."

In particular, although Debtor asserts (a) that she spends a "de minimis" amount on gambling and (b) that the \$61,675.00 of winnings and \$52,631.00 of losses on her tax returns are gross amounts that do not accurately reflect the netting of wins and losses, nevertheless (i) the net appears to be approximately \$9,000 of winnings ($\$61,675.00 - \$52,631.00 = \$9,044.00$) that were not used to pay creditors; and (ii) she admits (dkt.103, para.7) to visiting a casino "about 5 times" in 2019, and "load[ing] up the card" with approximately \$300 or \$400 each time (although there is some ambiguity about whether sometimes those dollar amounts are reduced by carrying over alleged winnings from prior gambling), which would appear to mean an admission that she spent approximately \$1,500 to \$2,000 on gambling instead of paying her creditors. In addition, Debtor appears to be asserting that she generally wins (to the extent she is asserting that her winnings are carried over), and yet her own evidence (dkt.103, Ex.C) is that the casino has the edge and gamblers generally lose. In addition, this Court is concerned that Debtor's extremely modest budget (dkt.103, Ex.B) does not appear to reflect any ability to use \$300 or \$400 on each visit to a casino, even supposing significant "belt tightening" by Debtor. All of this calls into question whether Debtor is hiding other sources of income, and/or otherwise being less than truthful.

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

Thursday, February 18, 2021

Hearing Room 1545

8:30 AM

CONT... **Ramona Ann Brown**

Chapter 13

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Ramona Ann Brown

Represented By
Kevin T Simon

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Thursday, February 18, 2021

Hearing Room 1545

8:30 AM

2:17-22364 Algerita Wynn

Chapter 13

#2.00 Hrg re: Motion under Local Bankruptcy Rule 3015-1
(n) and (w) to modify plan or suspend plan payments

Docket 76

Tentative Ruling:

Tentative ruling for 2/18/21 (posted 2/17/21 at 1:15 p.m.):

Appearances required, absent either (1) an agreement with the Chapter 13 Trustee's office to further continue this matter or (2) withdrawal of the motion by Debtor. There is no tentative ruling, but the parties should be prepared to address the issues raised by the Chapter 13 Trustee (dkt. 78).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Algerita Wynn

Represented By
Devin Sawdayi

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Thursday, February 18, 2021

Hearing Room 1545

8:30 AM

2:18-10553 Pamela Williams

Chapter 13

#3.00 Hrg re: Motion under Local Bankruptcy Rule 3015-1
(n) and (w) to modify plan or suspend plan payments

Docket 34

Tentative Ruling:

Appearances required, absent either (1) an agreement with the Chapter 13 Trustee's office to further continue this matter or (2) withdrawal of the motion by Debtor. There is no tentative ruling, but the parties should be prepared to address the issues raised by the Chapter 13 Trustee (dkt. 35).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Pamela Williams

Represented By
David Samuel Shevitz

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Thursday, February 18, 2021

Hearing Room 1545

8:30 AM

2:18-18736 Raju Maity

Chapter 13

#4.00 Hrg re: Motion under Local Bankruptcy Rule 3015-1
(n) and (w) to modify plan or suspend plan payments

Docket 122

***** VACATED *** REASON: This matter has been resolved (see dkt. 129).**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Raju Maity

Represented By

Sanaz Sarah Bereliani

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Thursday, February 18, 2021

Hearing Room 1545

8:30 AM

2:19-17699 Gina Marie Darden

Chapter 13

#5.00 Hrg re: Motion under Local Bankruptcy Rule 3015-1 (n)
and (w) to modify plan or suspend plan payments

Docket 81

Tentative Ruling:

Appearances required, absent either (1) an agreement with the Chapter 13 Trustee's office to further continue this matter or (2) withdrawal of the motion by Debtor. There is no tentative ruling, but the parties should be prepared to address the issues raised by the Chapter 13 Trustee (dkt. 84).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Gina Marie Darden

Represented By
Steven A Alpert

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Thursday, February 18, 2021

Hearing Room 1545

8:30 AM

2:20-17479 Jose Angel Rosales

Chapter 13

#6.00 Hrg re: Motion to Convert Case From Chapter 13 to 11

Docket 38

***** VACATED *** REASON: Dismissed on 2/11/21 pursuant to request for
voluntary dismissal (dkt. 51).**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jose Angel Rosales

Represented By
Dana M Douglas

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Thursday, February 18, 2021

Hearing Room 1545

8:30 AM

2:20-15627 Tonya Elaine Crawford

Chapter 13

#7.00 Hrg re: Motion to Avoid Lien Junior Lien with
Trojan Capital Investments, LLC

Docket 58

Tentative Ruling:

Continue to 4/22/21 at 8:30 a.m. to address the following issues.
Appearances are not required on 2/18/21.

Reason:

Appraisal; date of valuation. The junior lienholder has requested (dkt. 63) additional time to obtain an appraisal. Debtor is directed to provide reasonable access for that purpose. The junior lienholder is directed to file and serve the appraisal at least 14 days before the continued hearing. Note: Judge Bason's tentative ruling is to require valuations *at or near the petition date*. See *In re Gutierrez*, 503 B.R. 458 (Bankr. C.D. Cal. 2013).

At the continued hearing the parties should address how they propose to resolve their disputes - e.g., (i) with an evidentiary hearing; (ii) with a court ruling based solely on the written record (to save costs, if all parties consent), (iii) through mediation, or (iv) through appointment of an appraiser (jointly selected by the parties/their appraisers) as the court's own expert under FRE 706.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

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

Thursday, February 18, 2021

Hearing Room 1545

8:30 AM

CONT... Tonya Elaine Crawford

Chapter 13

Party Information

Debtor(s):

Tonya Elaine Crawford

Represented By
Stephen S Smyth

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Thursday, February 18, 2021

Hearing Room 1545

8:30 AM

2:15-28488 Bernardo Manzano Reyes

Chapter 13

#8.00 Cont'd hrg re: Motion under Local Bankruptcy Rule 3015-1 (n)
and (w) to modify plan or suspend plan payments
fr. 1/21/21

Docket 63

***** VACATED *** REASON: Resolved by dkt. 78 and order thereon**

Tentative Ruling:

Party Information

Debtor(s):

Bernardo Manzano Reyes

Represented By
Thomas B Ure

Movant(s):

Bernardo Manzano Reyes

Represented By
Thomas B Ure

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Thursday, February 18, 2021

Hearing Room 1545

8:30 AM

2:17-11894 Carlos Alonso Montero

Chapter 13

#9.00 Cont'd hrg re: Motion under Local Bankruptcy Rule 3015-1 (n) and (w) to modify plan or suspend plan payments fr. 1/21/21

Docket 70

Tentative Ruling:

Tentative Ruling for 2/18/21:

Appearances required.

Based on the arguments and representations of the parties at the hearing on 1/21/21, this Court continued the matter to this date for Debtor to provide a declaration of postpetition income and expenses, which Debtor has now done (see dkt. 77), and possibly other information as requested by the Chapter 13 Trustee. There is no tentative ruling, but the parties should be prepared to address whether all of the issues raised by the Chapter 13 Trustee (dkt. 72) have been resolved.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 1/21/21:

Appearances required, absent either (1) an agreement with the Chapter 13 Trustee's office to further continue this matter or (2) withdrawal of the motion by Debtor. There is no tentative ruling, but the parties should be prepared to

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

Thursday, February 18, 2021

Hearing Room 1545

8:30 AM

CONT... **Carlos Alonso Montero**

Chapter 13

address the issues raised by the Chapter 13 Trustee (dkt. 72).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Carlos Alonso Montero

Represented By
Jacqueline D Serrao

Movant(s):

Carlos Alonso Montero

Represented By
Jacqueline D Serrao

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Thursday, February 18, 2021

Hearing Room 1545

8:30 AM

2:17-14960 Shirley Swayne

Chapter 13

#10.00 Cont'd hrg re: Motion under Local Bankruptcy Rule 3015-1 (n) and (w) to modify plan or suspend plan payments fr. 12/17/20

Docket 57

Tentative Ruling:

Tentative Ruling for 2/18/21:

Appearances required.

Based on the arguments and representations of the parties on 12/17/20, this Court continued the matter to this date. The parties should be prepared to address whether the issues raised by the Chapter 13 Trustee (dkt. 59) have been resolved.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 12/17/20:

Appearances required, absent either (1) an agreement with the Chapter 13 Trustee's office to further continue this matter or (2) withdrawal of the motion by Debtor. There is no tentative ruling, but the parties should be prepared to address the issues raised by the Chapter 13 Trustee (dkt. 59).

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

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

Thursday, February 18, 2021

Hearing Room 1545

8:30 AM

CONT...

Shirley Swayne

Chapter 13

to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Shirley Swayne

Represented By
Tina H Trinh

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Thursday, February 18, 2021

Hearing Room 1545

8:30 AM

2:17-17280 Roy Gutierrez

Chapter 13

#11.00 Cont'd hrg re: Motion under Local Bankruptcy Rule 3015-1 (n) and (w) to modify plan or suspend plan payments fr. 1/21/21

Docket 32

Tentative Ruling:

Tentative Ruling for 2/18/21:

Appearances required.

At the hearing on 1/21/21 this Court was persuaded to continue the matter to this date to allow time for escrow to close and the Trustee to receive funds sufficient to satisfy all claims. The parties should be prepared to provide an update on where things stand.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 1/21/21:

Appearances required, absent either (1) an agreement with the Chapter 13 Trustee's office to further continue this matter or (2) withdrawal of the motion by Debtor. There is no tentative ruling, but the parties should be prepared to address the issues raised by the Chapter 13 Trustee (dkt. 37).

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

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

Thursday, February 18, 2021

Hearing Room 1545

8:30 AM

CONT...

Roy Gutierrez

Chapter 13

to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Roy Gutierrez

Represented By
Michael V Jehdian

Movant(s):

Roy Gutierrez

Represented By
Michael V Jehdian

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Thursday, February 18, 2021

Hearing Room 1545

8:30 AM

2:17-24084 Kip Scott Rolfe

Chapter 13

#12.00 Cont'd hrg re: Objection to Claim Number 11
by Claimant Internal Revenue Service
fr. 1/21/21

Docket 74

***** VACATED *** REASON: Continued to 4/22/21 at 8:30 a.m. pursuant
to the parties' stipulation (dkt. 84) and order thereon**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Kip Scott Rolfe

Represented By
Thomas B Ure

Movant(s):

Kip Scott Rolfe

Represented By
Thomas B Ure

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Thursday, February 18, 2021

Hearing Room 1545

8:30 AM

2:19-10931 Paulett Jones

Chapter 13

#13.00 Cont'd hrg re: Motion under Local Bankruptcy Rule 3015-1 (n) and (w) to modify plan or suspend plan payments fr. 12/17/20

Docket 45

Tentative Ruling:

Tentative Ruling for 2/18/21:

Appearances required.

At the hearing on 12/17/20, this Court was persuaded to continue the matter to this date. The parties should be prepared to address whether the issues raised by the Chapter 13 Trustee (dkt. 48) have been resolved.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 12/17/20:

Appearances required, absent either (1) an agreement with the Chapter 13 Trustee's office to further continue this matter or (2) withdrawal of the motion by Debtor. There is no tentative ruling, but the parties should be prepared to address the issues raised by the Chapter 13 Trustee (dkt. 48).

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

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

Thursday, February 18, 2021

Hearing Room 1545

8:30 AM

CONT...

Paulett Jones

Chapter 13

to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Paulett Jones

Represented By
R Grace Rodriguez

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Thursday, February 18, 2021

Hearing Room 1545

8:30 AM

2:19-12461 Dagoberto De Los Angeles Gutierrez Tejada

Chapter 13

#14.00 Cont'd hrg re: Motion under Local Bankruptcy Rule 3015-1 (n)
and (w) to Modify Plan or Suspend Plan Payments
fr. 10/22/20, 11/19/20

Docket 41

***** VACATED *** REASON: Dismissed on 11/20/20 pursuant to Trustee's
motion (dkt. 54).**

Tentative Ruling:

Party Information

Debtor(s):

Dagoberto De Los Angeles Gutierrez

Represented By
Lionel E Giron

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Thursday, February 18, 2021

Hearing Room 1545

8:30 AM

2:19-13395 Tausha Suzette Petrotta

Chapter 13

#15.00 Cont'd hrg re: Objection to Claim Number 10 by Claimant The Bank of New York, as Trustee for the Certificateholders of CWALT, Inc. Alternative Loan Trust 2005-27, Mortgage Pass-Through Certificates Series 2005-27 fr. 07/23/20, 9/24/20, 10/22/20, 12/17/20

Docket 43

Tentative Ruling:

Tentative Ruling for 2/18/21:

Appearances required.

At the hearing on 12/17/20 this Court was persuaded to continue the matter to this date. There is no tentative ruling, but the parties should be prepared to address the status of Debtor's loan modification.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 12/17/20 (same as for 10/22/20 and 9/24/20)

Appearances required.

There is no tentative ruling, but the parties should be prepared to address (1) the status of Debtor's attempted loan modification, (2) whether, if Debtor is in a trial modification period, this hearing should be continued, (3) alternatively whether, if Debtor has been granted a loan modification, this claim objection is

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CONT... Tausha Suzette Petrotta

Chapter 13

moot, or (4) alternatively whether, if the loan modification was denied, this Court should adopt its tentative ruling from 7/23/20 to deny the claim objection, and whether any such denial should be with or without leave to amend (*i.e.*, with leave to file any new claim objection).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 10/22/20 (same as for 9/24/20):
Appearances required.

There is no tentative ruling, but the parties should be prepared to address (1) the status of Debtor's attempted loan modification, (2) whether, if Debtor is in a trial modification period, this hearing should be continued, (3) alternatively whether, if Debtor has been granted a loan modification, this claim objection is moot, or (4) alternatively whether, if the loan modification was denied, this Court should adopt its tentative ruling from 7/23/20 to deny the claim objection, and whether any such denial should be with or without leave to amend (*i.e.*, with leave to file any new claim objection).

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

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CONT... Tausha Suzette Petrotta

Chapter 13

COVID-19 procedures, all appearances are telephonic via CourtCall at (888) 882-6878.

Tentative Ruling for 7/23/20:

Overrule the claim objection for the reasons set forth in the Bank of New York Mellon opposition (dkt. 59). Appearances are not required. If you wish to dispute the tentative ruling you must notify other parties of your intent to appear telephonically.

Pursuant to Judge Bason's COVID19 Procedures, **ONLY TELEPHONIC APPEARANCES WILL BE PERMITTED until further notice**. Please contact CourtCall at (888) 882-6878 to make arrangements for any telephonic appearance. There is no need to contact the Court for permission. Parties who are not represented by an attorney will be able to use CourtCall for free through 8/31/20. Attorneys will receive a 25% discount (for more information, see www.cacb.uscourts.gov, "Judges," "Bason, N.," "Telephonic Instructions").

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

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

Party Information

Debtor(s):

Tausha Suzette Petrotta

Represented By
Donna R Dishbak

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Thursday, February 18, 2021

Hearing Room 1545

8:30 AM

2:19-15346 Richard Glen LeRoy

Chapter 13

#16.00 Cont'd hrg re: Motion to Disallow Claim #1 of LVNV Funding , LLC
fr. 1/21/21

Docket 28

Tentative Ruling:

Tentative Ruling for 2/18/21:

Grant the objection and disallow Claim 1 in full. Appearances are not required on 2/18/21.

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

(a) Counsel may charge a reduced fee of \$300

This Court has reviewed Counsel's cost/benefit analysis requesting \$300 for time spent in connection with this matter. Dkt. 32. Counsel appears to be correct that authorizing a reduced fee of \$300 will result in a net benefit to the estate of \$26.47, because Debtor's confirmed Plan proposes a 100% dividend to general unsecured creditors. See Dkt. 2 & 20.

This Court notes that even with that voluntary cap, a net benefit to the bankruptcy estate and Debtor are not assured. If circumstances were to change, and Debtor later seeks to modify his Plan due to a material change in his income or expenses, then it is possible that Counsel will have been paid 100% of his administrative claim and the net benefit of the Claim Objection might be de minimus or actually result in a lower payment to general unsecured creditors.

Nevertheless, on this record, this Court is prepared to find that the cost/benefit analysis sufficiently establishes some benefit to the estate for purposes of Judge Bason's posted Procedures regarding claim objections, so this Court's limitation on fees in the prior tentative ruling on this matter is hereby vacated and Counsel is authorized to charge \$300 in fees.

Counsel is cautioned that in future, this Court will require a stronger showing of a benefit to the estate to justify any award of fees for claim objection(s).

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CONT... Richard Glen LeRoy

Chapter 13

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 1/21/21:

Continue to 2/18/21 at 8:30 a.m. to address the following issues.
Appearances are not required on 1/21/21.

Lack of cost/benefit analysis. The posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) provide:

§ 502: claim objections & cost/benefit analysis. When objecting to claims, be sure to include an analysis of whether the costs of preparing and litigating the claim objection (administrative expenses) do not exceed the anticipated benefits (reductions in claims). For example, if the anticipated dividend is small or 0% then the attorney fees incurred in prosecuting your claim objection to any general unsecured claim probably will exceed the benefit to the bankruptcy estate/debtor, so filing that objection would be a waste of the bankruptcy estate's (and everyone else's) resources (unless, for example, the claim is nondischargeable, in which event the attorney fees might well be justified).

No later than 7 days after the date of this hearing the movant must file either:

(1) a supplemental declaration explaining why the attorney fees for this objection are justified (including supporting evidence, such as a copy of the plan showing the projected dividend to the claimant, and a calculation comparing that projected dividend against the attorney fees related to this

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CONT... **Richard Glen LeRoy**

Chapter 13

claim objection), or
(2) a withdrawal of the claim objection.

No fees on this matter, absent specific authorization. Counsel is directed not to charge any fees on this matter (including all past, present and future work related to this claim objection), and to return any fees received on this matter, unless and until this Court expressly finds: "Counsel has provided a cost/benefit analysis that is sufficient for purposes of Judge Bason's posted Procedures regarding claim objections." It is counsel's responsibility to include the quoted phrase, if warranted, in the proposed order on this claim objection.

This Court does not have the capacity to monitor all fee applications to assure compliance with the foregoing limitation on fees. But if counsel is found to have disregarded this limitation then this Court may impose sanctions.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Richard Glen LeRoy

Represented By
Nicholas M Wajda

Movant(s):

Richard Glen LeRoy

Represented By
Nicholas M Wajda

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Central District of California
Los Angeles
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8:30 AM

CONT... Richard Glen LeRoy

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Thursday, February 18, 2021

Hearing Room 1545

8:30 AM

2:19-16965 Nelson Enrique Gomez

Chapter 13

#17.00 Cont'd hrg re: Motion under Local Bankruptcy Rule 3015-1 (n) and (w) to modify plan or suspend plan payments fr. 9/24/20, 11/19/20

Docket 102

Tentative Ruling:

Tentative Ruling for 2/18/21 (same as for 9/24/20 and 11/19/20):

Appearances required, absent either (1) an agreement with the Chapter 13 Trustee's office to further continue this matter or (2) withdrawal of the motion by Debtor. There is no tentative ruling, but the parties should be prepared to address the issues raised by the Chapter 13 Trustee and whether Debtor has sufficiently addressed those concerns (dkt. 109).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 11/19/20 (same as for 9/24/20):

Appearances required, absent either (1) an agreement with the Chapter 13 Trustee's office to further continue this matter or (2) withdrawal of the motion by Debtor. There is no tentative ruling, but the parties should be prepared to address the issues raised by the Chapter 13 Trustee and whether Debtor has sufficiently addressed those concerns (dkt. 109).

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

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CONT... Nelson Enrique Gomez

Chapter 13

to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, all appearances are telephonic via CourtCall at (888) 882-6878.

Party Information

Debtor(s):

Nelson Enrique Gomez

Represented By
Maria C Hehr

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Thursday, February 18, 2021

Hearing Room 1545

8:30 AM

2:20-10178 Judith Gonzalez

Chapter 13

#18.00 Cont'd hrg re: Motion under Local Bankruptcy Rule 3015-1 (n) and (w) to modify plan or suspend plan payments fr. 1/21/21

Docket 69

Tentative Ruling:

Tentative Ruling for 2/18/21:

Appearances required.

Based on the arguments and representations of the parties on 1/21/21, this Court continued the matter to this date for Debtor to file proof regarding current income and expenses. The parties should be prepared to address whether the issues raised by the Chapter 13 Trustee (dkt. 73) and 2nd Chance Mortgages Inc. (dkt. 71) have been resolved by Debtor's supplemental papers (dkt. 77-79).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 1/21/21:

Appearances required, absent either (1) an agreement with the Chapter 13 Trustee's office to further continue this matter or (2) withdrawal of the motion by Debtor. There is no tentative ruling, but the parties should be prepared to address the issues raised by the Chapter 13 Trustee (dkt. 73) and 2nd

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CONT... **Judith Gonzalez**
Chance Mortgages Inc. (dkt. 71).

Chapter 13

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Judith Gonzalez

Represented By
Sunita N Sood

Movant(s):

Judith Gonzalez

Represented By
Sunita N Sood

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Thursday, February 18, 2021

Hearing Room 1545

8:30 AM

2:20-16242 Magdalena Avila

Chapter 13

#19.00 Cont'd hrg re: Debtor's Objection to Proof of
Claim 6 by Claimant BBV Profit Sharing Plan
fr. 9/24/20, 10/22/20, 11/19/20, 12/17/20, 1/21/21,

Docket 38

***** VACATED *** REASON: Order approving stipulation signed 1/27/21
[dkt. 73]**

Tentative Ruling:

Party Information

Debtor(s):

Magdalena Avila

Represented By
Stephen S Smyth

Movant(s):

Magdalena Avila

Represented By
Stephen S Smyth

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Thursday, February 18, 2021

Hearing Room 1545

8:30 AM

2:20-17820 Carey Marie Sutton and Thomas Grant Sutton

Chapter 13

#20.00 Cont'd hrg re: Objection to Claim
Number 6 by Claimant IRS
fr. 1/21/21

Docket 37

Tentative Ruling:

Tentative Ruling for 2/18/21:

Continue to 3/18/21 at 8:30 a.m. and set a deadline of **3/4/21** for Debtors to file a supplemental brief and declaration(s) addressing the issues set forth below. After the hearing this Court will issue an order memorializing this tentative ruling. Appearances are not required on 2/18/21.

Key documents reviewed (in addition to motion papers): Amended Claim Objection (dkt. 41), Declaration re cost/benefit analysis (dkt. 43), no opposition is on file.

Analysis:

(a) Service

This matter was continued from 1/21/21 to allow Debtors an opportunity to cure the service deficiencies discussed in the tentative ruling for that hearing (copied below). Based on this Court's review of Debtors' amended proof of service (dkt. 41, PDF pp.36-27), the tentative ruling is that service is proper.

(b) Cost-benefit analysis

This Court's tentative ruling for 1/21/21 also required Debtors to submit a declaration addressing the cost/benefit analysis of filing the claim objection as required by Judge Bason's posted procedures ("Procedures") (available at www.cacb.uscourts.gov). This Court expressly finds that Counsel has provided a cost/benefit analysis (dkt. 43) that is sufficient for purposes of the Procedures regarding claim objections, so any limitation on fees in the prior tentative ruling on this matter is hereby vacated.

(c) Legal standard

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CONT...

Carey Marie Sutton and Thomas Grant Sutton

Chapter 13

A proof of claim is "deemed allowed" unless an objection is made, and if such objection is made then "the court 'shall allow' the claim 'except to the extent that' the claim implicates any of the nine exceptions enumerated in 502(b)." *Travelers Cas. & Sur. Co. of Am. V. Pac. Gas & Elec. Co.*, 549 U.S. 443, 449 (2007) (citing 11 U.S.C. 502(b)(1)-(9)). In other words, the burden is on the objecting party to provide a cognizable ground to disallow the claim.

(d) Merits

Debtors seek an order disallowing the secured and priority claims of the Internal Revenue Service ("IRS") (see Proof of Claim 6) and recharacterizing the entire debt as a general unsecured claim. The tentative ruling is that Debtors' arguments are confusing and largely unsupported by citations to applicable statutes and relevant legal authority.

Accordingly, the tentative ruling is to further continue this matter to the time and place stated at the start of this tentative ruling and direct Debtors to file a supplemental brief and any appropriate declaration(s) by **3/4/21** addressing the asserted grounds for the relief sought by Debtors, including but not limited to the following issues:

(i) Applicable statute of limitations, or similar alleged bar

Debtors argue that the "IRS tax lien is unenforceable as 10 years have passed since assessment of the tax" so the tax lien "has died of old age." (dkt. 41, p.2, para. "(2)"). But there is no citation to any statute to support Debtors' contention that an IRS tax lien becomes unenforceable ten years after the date of assessment (or ten years after the date the lien was recorded, or any other period of time). Nor have Debtors clearly set forth whatever dates are applicable.

To be clear, this Court recognizes that conceivably Debtors are entirely correct that a statute of limitations or repose, or a lien-expiration statute, or some similar bar might apply. But Debtors have not connected the dots to explain why that is so, as a factual and legal matter.

(ii) Retirement account

Debtors argue that the IRS cannot seize funds in the employer operated retirement account, because (w) the account is a qualified retirement plan under ERISA, (x) those funds are not property of the bankruptcy estate, and (y) Debtors do not have access to those funds because they are being held in trust with a restriction against any transfer of his beneficial interest.

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CONT... Carey Marie Sutton and Thomas Grant Sutton

Chapter 13

Dkt. 41, pp.2, para. "(3)" & 3, para. "(9)". With the exception of a single reference to "U.S.C. 6334" (dkt. 41, p.2, para. "(3)") (which this Court presumes is a reference to 26 U.S.C. 6334), Debtors provide no legal authority explaining why any of these conclusory arguments have any merit.

Debtors do not include the text of 26 U.S.C. 6334 or any analysis of whether the Bankruptcy Code or some other State or Federal exemption scheme would apply to seizure of an asset that is not property of the bankruptcy estate. Nor do Debtors cite any subsection of 11 U.S.C. 541 excepting ERISA retirement accounts from becoming estate property, or any other authority prohibiting the transfer of protected trust *res*. This Court notes that Debtors attach an "account statement" (dkt. 41, PDF p.9) and printouts from a website (*id.*, PDF pp.10-17), but neither is supported by a declaration purporting to establish their admissibility or otherwise explaining their relevance in the context of this claim objection.

Again, to be clear, this Court recognizes that conceivably Debtors are entirely correct that the funds in the retirement account are not property of the bankruptcy estate and/or cannot be subject to the IRS lien. But Debtors have not connected the dots to explain why that is so, as a factual and legal matter.

(iii) Debtors' argument that the IRS' secured claim impairs Debtors' exemption(s)

Debtors argue that "the property or estate is covered by bankruptcy exemptions USC section 6334" (dkt. 41, p.3, para. "(5)") and that the "claim is for tax assessed against property of the estate that exceeds the value of such property," (*id.*, para. "(6)") but they cite no authority in support. This Court presumes Debtors are referring to 11 U.S.C. 502(b)(3), but it is not this Court's responsibility to make Debtors' arguments for them.

(iv) Alleged insufficiency of supporting documentation and alleged mismanagement

Debtors argue that the IRS has failed to attach sufficient documentation establishing that it holds a secured claim. Dkt. 41, p.3, para. "(5)". But lack of documentation, on its own, is not a sufficient basis to disallow a claim. See *In re Heath*, 331 B.R. 424 (9th Cir. BAP 2005).

Debtors also argue that claims of tax liability continue to be asserted by the IRS "despite their [sic] lack of knowledge, responsibility, financial control, and their best remedial efforts." Dkt. 41, p.3, para. "(7)." It is not clear what

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CONT... Carey Marie Sutton and Thomas Grant Sutton

Chapter 13

this means. Moreover, even if its is true that Debtors lack knowledge or "responsibility" in some broad sense, Debtors do not explain how any such facts would provide a viable legal basis to disallow and/or recharacterize the IRS's claim under 11 U.S.C. 502(b).

(v) Lack of grounds for treating entire claim as non-priority, or disallowing entire claim

Debtors appear to seek an order not only establishing that any IRS lien is unenforceable but also an order disallowing all claims of the IRS or, alternatively, treating them as nonpriority unsecured claims. It is unclear on what basis Debtors seek such relief.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 1/21/21:

Continue to 2/18/21 at 8:30 a.m. to address the following issues.

Appearances are not required on 1/21/21.

Reasons:

(a) Service

The motion papers were not served on the Internal Revenue Service ("IRS") at the address stated in its Proof of Claim (*i.e.*, Claim 6-1, p.1, para. "(3)"), which is also the required address listed for the IRS in the Court Manual. See Rule 7004(b)(4)&(5) (Fed. R. Bankr. P.); Local Bankruptcy Rule 2002-2(c)(2). Debtor is directed to serve the moving papers in a manner consistent with this ruling and file a proof of service no later than **1/28/21**.

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CONT... Carey Marie Sutton and Thomas Grant Sutton

Chapter 13

(b) Lack of cost/benefit analysis. The posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) provide:

§ 502: claim objections & cost/benefit analysis. When objecting to claims, be sure to include an analysis of whether the costs of preparing and litigating the claim objection (administrative expenses) do not exceed the anticipated benefits (reductions in claims). For example, if the anticipated dividend is small or 0% then the attorney fees incurred in prosecuting your claim objection to any general unsecured claim probably will exceed the benefit to the bankruptcy estate/debtor, so filing that objection would be a waste of the bankruptcy estate's (and everyone else's) resources (unless, for example, the claim is nondischargeable, in which event the attorney fees might well be justified).

No later than 7 days after the date of this hearing the movant must file either:

(1) a supplemental declaration explaining why the attorney fees for this objection are justified (including supporting evidence, such as a copy of the plan showing the projected dividend to the claimant, and a calculation comparing that projected dividend against the attorney fees related to this claim objection), or

(2) a withdrawal of the claim objection.

No fees on this matter, absent specific authorization. Counsel is directed not to charge any fees on this matter (including all past, present and future work related to this claim objection), and to return any fees received on this matter, unless and until this Court expressly finds: "Counsel has provided a cost/benefit analysis that is sufficient for purposes of Judge Bason's posted Procedures regarding claim objections." It is counsel's responsibility to include the quoted phrase, if warranted, in the proposed order on this claim objection.

This Court does not have the capacity to monitor all fee applications to assure compliance with the foregoing limitation on fees. But if counsel is found to have disregarded this limitation then this Court may impose sanctions.

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

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Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, February 18, 2021

Hearing Room 1545

8:30 AM

CONT... **Carey Marie Sutton and Thomas Grant Sutton** Chapter 13

to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Carey Marie Sutton

Represented By
Marc A Goldbach

Joint Debtor(s):

Thomas Grant Sutton

Represented By
Marc A Goldbach

Movant(s):

Carey Marie Sutton

Represented By
Marc A Goldbach
Marc A Goldbach
Marc A Goldbach
Marc A Goldbach
Marc A Goldbach

Thomas Grant Sutton

Represented By
Marc A Goldbach
Marc A Goldbach
Marc A Goldbach

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Thursday, February 18, 2021

Hearing Room 1545

8:30 AM

2:20-18427 Bedros Missak Yazijian

Chapter 13

#21.00 Cont'd hrg re: Objection to Proof of Claim
Filed by Bank of America #1, #2 and #3
fr. 1/21/21

Docket 24

Tentative Ruling:

Tentative Ruling for 2/18/21:

Appearances are not required.

This Court continued the 1/21/21 hearing for lack of a cost/benefit analysis. Debtor has provided that analysis (dkt. 42). The tentative ruling is to sustain Debtor's objection to proof of claims 1, 2, and 3.

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

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 1/21/21:

Continue to 2/18/21 at 8:30 a.m. to address the following issues.

Appearances are not required on 1/21/21.

Lack of cost/benefit analysis. The posted Procedures of Judge Bason

**United States Bankruptcy Court
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Thursday, February 18, 2021

Hearing Room 1545

8:30 AM

CONT... **Bedros Missak Yazijian**

Chapter 13

(available at www.cacb.uscourts.gov) provide:

§ 502: claim objections & cost/benefit analysis. When objecting to claims, be sure to include an analysis of whether the costs of preparing and litigating the claim objection (administrative expenses) do not exceed the anticipated benefits (reductions in claims). For example, if the anticipated dividend is small or 0% then the attorney fees incurred in prosecuting your claim objection to any general unsecured claim probably will exceed the benefit to the bankruptcy estate/debtor, so filing that objection would be a waste of the bankruptcy estate's (and everyone else's) resources (unless, for example, the claim is nondischargeable, in which event the attorney fees might well be justified).

No later than 7 days after the date of this hearing the movant must file either:

(1) a supplemental declaration explaining why the attorney fees for this objection are justified (including supporting evidence, such as a copy of the plan showing the projected dividend to the claimant, and a calculation comparing that projected dividend against the attorney fees related to this claim objection), or

(2) a withdrawal of the claim objection.

No fees on this matter, absent specific authorization. Counsel is directed not to charge any fees on this matter (including all past, present and future work related to this claim objection), and to return any fees received on this matter, unless and until this Court expressly finds: "Counsel has provided a cost/benefit analysis that is sufficient for purposes of Judge Bason's posted Procedures regarding claim objections." It is counsel's responsibility to include the quoted phrase, if warranted, in the proposed order on this claim objection.

This Court does not have the capacity to monitor all fee applications to assure compliance with the foregoing limitation on fees. But if counsel is found to have disregarded this limitation then this Court may impose sanctions.

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

**United States Bankruptcy Court
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Hearing Room 1545

8:30 AM

CONT... **Bedros Missak Yazijian**

Chapter 13

www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Bedros Missak Yazijian

Represented By
Roland H Kedikian

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Thursday, February 18, 2021

Hearing Room 1545

8:30 AM

2:20-18844 Graciela Gomez

Chapter 13

#22.00 Cont'd hrg re: Amended Motion in Individual Case
for Order Authorizing Use of Cash Collateral
fr. 12/17/20

Docket 32

Tentative Ruling:

Tentative Ruling for 2/18/21:
Appearances required.

Based on the arguments and representations of the parties on 12/17/20, this Court continued the matter to this date to allow time for them to negotiate the terms of a cash collateral stipulation. But after the hearing Debtor filed a motion to refinance the subject property and pay off First Commerce, LLC's lien in full, which this Court granted. See dkt. 36, 39. There is no tentative ruling. The parties should be prepared to address (1) whether the refinance transaction did or did not close; (2) whether, if the refinancing did close, there is a need for retroactive approval of Debtor's use of First Commerce, LLC's cash collateral prior to its payoff or whether that issue is now moot; and (3) whether there is a need for this Court to authorize prospective use of the new lender's cash collateral.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

**United States Bankruptcy Court
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Los Angeles
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Thursday, February 18, 2021

Hearing Room 1545

8:30 AM

CONT... Graciela Gomez

Chapter 13

**Tentative Ruling for 12/17/20:
Appearances required.**

There is no tentative ruling. The parties should be prepared to address the issues raised in the motion papers (dkt. 32) and the opposition papers (dkt.34).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Graciela Gomez

Represented By
Christine A Kingston

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Thursday, February 18, 2021

Hearing Room 1545

8:30 AM

2:20-20239 Portia D. Austin

Chapter 13

#23.00 Cont'd hrg re: Motion to Avoid Lien Junior Lien on
Principal Residence with Argent Mortgage Company
fr. 12/17/20

Docket 14

Tentative Ruling:

Tentative Ruling for 2/18/21:

Appearances required.

Based on the arguments representations of the parties at the 12/17/20 hearing, this Court continued the hearing to this date to allow the parties an opportunity to negotiate a settlement. There is no tentative ruling, but the parties should be prepared to discuss the progress on these negotiations.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 12/17/20:

Appearances required.

There is no tentative ruling. The parties should be prepared to address the issues raised in the motion papers (dkt. 14), the opposition papers (dkt. 18), and the reply (dkt. 20).

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Los Angeles
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Thursday, February 18, 2021

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8:30 AM

CONT... Portia D. Austin

Chapter 13

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Portia D. Austin

Represented By

David Samuel Shevitz

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Thursday, February 18, 2021

Hearing Room 1545

8:30 AM

2:19-21178 Carletta D. Barnes

Chapter 13

#24.00 Hrg re: Motion for Authority to Sell or Refinance
Real Property under LBR 3015-1

Docket 28

Tentative Ruling:

Grant on the terms set forth in the Chapter 13 Trustee's latest response (dkt.47). Appearances are not required.

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

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Carletta D. Barnes

Represented By
Steven B Lever

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Thursday, February 18, 2021

Hearing Room 1545

8:30 AM

2:19-11127 Gegine Martirosyan

Chapter 13

#25.00 Hrg re: Motion under LBR 3015-1(n) and
(2) to modify plan or suspend plan payment

Docket 56

***** VACATED *** REASON: Granted (dkt.76)**

Tentative Ruling:

Party Information

Debtor(s):

Gegine Martirosyan

Represented By
Stella A Havkin

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Thursday, February 18, 2021

Hearing Room 1545

8:30 AM

2:19-21521 Tatung Company of America, Inc.

Chapter 11

#26.00 Hrg re: Motion For Final Decree and Order Closing Case

Docket 519

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 27, 2/18/21 at 8:30 a.m.).

Party Information

Debtor(s):

Tatung Company of America, Inc.

Represented By
Ron Bender
Lindsey L Smith
Juliet Y Oh

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Thursday, February 18, 2021

Hearing Room 1545

8:30 AM

2:19-21521 Tatung Company of America, Inc.

Chapter 11

#27.00 Status Conference re: Post confirmation
fr. 10/2/19, 10/15/19, 10/29/19, 11/5/19, 12/10/19,
12/17/19, 01/07/20, 1/14/20, 02/18/20, 4/21/20,
6/2/20, 6/16/20, 7/7/20, 8/18/20, 9/1/20, 9/29/20,
10/6/20, 10/27/20, 12/1/20, 12/8/20

Docket 1

Tentative Ruling:

Tentative Ruling for 2/18/21:

Appearances are not required.

(1) Current issues

(a) Debtor's Motion for Entry of a Final Decree and Order Closing Case (dkt. 519, 535)

There are no filed objections on the docket and the statutory requirements of 11 U.S.C. 350(a) appear to be satisfied.

The tentative ruling is to Grant the motion.

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

(2) Deadlines/dates

This case was filed on 9/30/19, and Debtor's plan was confirmed on 12/9/20 (dkt. 467). The tentative ruling is that no future status conferences are required because this case will be closed.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, all appearances are telephonic via CourtCall at (888)

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Los Angeles
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Thursday, February 18, 2021

Hearing Room 1545

8:30 AM

**CONT... Tatung Company of America, Inc.
882-6878.**

Chapter 11

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Tatung Company of America, Inc.

Represented By
Ron Bender
Lindsey L Smith
Juliet Y Oh

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

Thursday, February 18, 2021

Hearing Room 1545

8:30 AM

2:21-10361 DOUGLAS E. WALLACE , JR

Chapter 13

#28.00 Hrg re: Motion in Individual Case for Order
Imposing a Stay or Continuing the Automatic
Stay as the Court Deems Appropriate

Docket 25

Tentative Ruling:

Appearances required.

The parties are directed to address the issues set forth in this Court's order (dkt. 27) setting this hearing. The tentative ruling, based on that order and Debtor's proof of service (dkt.29), is to grant the motion on an interim basis and set a continued hearing for 3/2/21 at 10:00 a.m. In addition, the tentative ruling is to set a deadline of 2/26/21 at 10:00 a.m. for any opposition to be filed on the docket and served on Debtor and the Chapter 13 Trustee, with any reply orally at the hearing, and to set a **deadline of 2/19/21** for Debtor to serve notice of the continued hearing and the opposition deadline, with a copy of the motion, on all parties in interest via U.S. mail.

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

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

**United States Bankruptcy Court
Central District of California
Los Angeles
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Thursday, February 18, 2021

Hearing Room 1545

8:30 AM

CONT... DOUGLAS E. WALLACE , JR

Chapter 13

Debtor(s):

DOUGLAS E. WALLACE JR

Represented By
Misty Wilks

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Thursday, February 18, 2021

Hearing Room 1545

9:30 AM

2:00-00000

Chapter

**#1.00 PLEASE BE ADVISED THAT THE CHAPTER 13 9:30 AM
CONFIRMATION CALENDAR CAN BE VIEWED ON THE
COURT'S WEBSITE (www.cacb.uscourts.gov) UNDER:
JUDGES>BASON, N.>CHAPTER 13>CONFIRMATION HEARINGS CALENDAR**

Docket 0

Tentative Ruling:

- NONE LISTED -

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

Thursday, February 18, 2021

Hearing Room 1545

11:00 AM
2:00-00000

Chapter

**#1.00 PLEASE BE ADVISED THAT THE CHAPTER 13 HEARINGS
at 11:00 AM CAN BE VIEWED ON THE COURT'S WEBSITE
(www.cacb.uscourts.gov) UNDER: JUDGES>BASON, N.>CHAPTER 13**

Docket 0

Tentative Ruling:

- NONE LISTED -

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

Thursday, February 18, 2021

Hearing Room 1545

1:00 PM

2:20-20550 Andrew Ming Zhou

Chapter 7

#1.00 Hrg re: Motion for a Bankruptcy Rule 2004 Examination of Debtor Andrew Zhou and for Production of Documents

Docket 15

***** VACATED *** REASON: Continued to 3/23/21 at 1:00 p.m.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Andrew Ming Zhou

Represented By
Jeffrey J Hagen

Trustee(s):

Elissa Miller (TR)

Pro Se

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

Thursday, February 25, 2021

Hearing Room 1545

8:00 AM
2:00-00000

Chapter

#0.00 ZoomGov Instructions for All Matters on Today's Calendar:

Meeting URL: <https://cacb.zoomgov.com/j/1610787999>
Meeting ID: 161 078 7999
Password: 657504
Telephone: +1 669 254 5252 or +1 646 828 7666 or 833 568 8864 (Toll Free)

Please connect at least 5 minutes before the start of your hearing, and wait with your microphone muted until your matter is called. You do not need to call Chambers for advance approval. ZoomGov appearances are free.

Docket 0

Tentative Ruling:

- NONE LISTED -

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

Thursday, February 25, 2021

Hearing Room 1545

8:30 AM

2:21-10956 LAX In-Flite Services, LLC

Chapter 11

#2.00 Hrg re: Emergency Motion for Order: (1) Authorizing Debtor in Possession to Honor Pre-Petition Employee Wages and / or Benefits in the Ordinary Course of Business; (2) Approving the Post-Petition Payment of Pre-Petition Wages; (3) Authorizing Debtor in Possession to Honor Pre-Petition Employment Procedures; and (4) Directing Banks and Financial Institutions to Honor and Process Checks and Transfers Related Thereto

Docket 19

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 1, 2/25/21 at 8:30 a.m.).

Party Information

Debtor(s):

LAX In-Flite Services, LLC

Represented By
Jeremy H Rothstein

Trustee(s):

John-Patrick McGinnis Fritz (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Thursday, February 25, 2021

Hearing Room 1545

8:30 AM

2:21-10956 LAX In-Flite Services, LLC

Chapter 11

#1.00 Status Conference re: Chapter 11 Case

Docket 0

Tentative Ruling:

Appearances required by counsel for Debtor (pursuant to this Court's Procedures Order (dkt. 3), Debtor's principal is not required to appear at this Status Conference, but is required to appear at the status conference on 3/2/21 at 1:00 p.m.).

(1) Current issues

(a) Payroll motion (dkt. 19), order shortening time ("OST," dkt. 20), notice/proofs of service (dkt.22, 23)

On the one hand, service appears to be defective. On the other hand, subject to any opposition at the hearing, it appears that this Court can, and should, grant relief anyway.

(i) Defective service

As for service, the OST set this hearing on extremely short time - a hearing on 2/25/21 based on a telephonic request and motion on 2/22/21 - but in exchange Debtor was required to serve most creditors via overnight delivery, personal delivery, or other proper method of service, for receipt **no later than 2/23/21**. It appears that did not happen.

The proofs of service (dkt.22, 23) appear to show service on many creditors via U.S. mail, which is presumed to take 3 days (per Rule 9006(f), Fed. R. Bankr. P.) and therefore would arrive after the hearing. That is inadequate.

Many other creditors are shown as being served via email, and such service is ineffective absent consent (such as the consent provided by creditors who have agreed to be served via this Court's "NEF" system, by registering for CM/ECF privileges). The OST itself reminds litigants of that limitation. See dkt. 20, p.3 ("Service by electronic means (facsimile or email) requires compliance with F.R.Civ.P. 5(b)(2)(E)."); *and see* Rules 4(d) (waiving service) *and* 5(b)(2)(E) (regarding service via "electronic means that the person consented to in writing") (Fed. R. Civ. P.) (both incorporated by Rule 9014(b), Fed. R. Bankr. P.).

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Thursday, February 25, 2021

Hearing Room 1545

8:30 AM

CONT...

LAX In-Flite Services, LLC

Chapter 11

Moreover, although it is not entirely clear what Bankruptcy Rules apply to a payroll motion, some sort of "notice and a hearing" or opportunity for a hearing are almost universally required for any sort of motions in bankruptcy cases. See *generally* 11 U.S.C. 102(1). Traditionally, payroll motions usually are required to be served on the 20 largest unsecured creditors and other types of key creditors, as the OST provides.

(ii) Granting relief anyway

Despite the foregoing concerns, this Court recognizes that paying employees usually is critical, both (A) for the benefit of all parties with a stake in maintaining a debtor's going concern value and (B) in fairness to the employees who are providing their labor in reliance on the promise of payment. In addition, this Court is authorized and required, "at any time" and "with or without a hearing," to condition the use of any property of the bankruptcy estate on whatever terms are necessary to provide adequate protection of any interest in such property (11 U.S.C. 363(e)); and in this instance the tentative ruling is that Debtor, as a debtor in possession acting as a trustee for the benefit of creditors and all parties in interest, is requesting the authority to use estate funds in a way that is necessary to protect the interests of persons with an interest in the bankruptcy estate, by paying employees and maintaining Debtor's going concern value. Therefore the tentative ruling is that this Court is authorized, and indeed required, to grant the payroll motion at this time, without a hearing or further notice; but with a warning to Debtor and its counsel that this is a truly exceptional type of motion and that usually the failure to serve papers as required by an OST and/or any applicable rules would result in denial of a motion.

(2) Dates/procedures. This case was filed on 2/5/21.

- (a) Bar date: 4/16/21 per General Order 20-01 (70 days after petition date in Subchapter V cases) (DO NOT SERVE any notice: one has already been sent, see dkt.16).
- (b) Procedures order: dkt.3 (timely served, dkt.9)
- (c) Plan/Disclosure Statement: file by 5/6/21 (DO NOT SERVE - except on the U.S. Trustee). See the **revised** "Procedures of Judge Bason" (available at www.cacb.uscourts.gov) (search for "Chapter 11: Plan").
- (d) Continued status conference: 3/2/21 at 1:00 p.m. No written status

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

Thursday, February 25, 2021

Hearing Room 1545

8:30 AM

CONT...

LAX In-Flite Services, LLC
report required.

Chapter 11

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

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

LAX In-Flite Services, LLC

Represented By
Jeremy H Rothstein

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

Thursday, February 25, 2021

Hearing Room 1545

9:00 AM

2:18-12429 Dana Hollister

Chapter 11

**#1.00 Hrg re: Motion for Order Authorizing Debtor to Borrow
Money Pursuant to 11 U.S.C. Section 364(d)**

Docket 1335

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 2,
2/25/21 at 9:00 a.m.).

Party Information

Debtor(s):

Dana Hollister

Represented By
David A Tilem
Mark A Kressel
Alan M Insul

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

Thursday, February 25, 2021

Hearing Room 1545

9:00 AM

2:18-12429 Dana Hollister

Chapter 11

#2.00 Cont'd Status Conference re: Chapter 11 Case
fr. 3/9/18, 3/20/18, 3/21/18, 4/17/18, 5/3/18, 5/7/18,
6/12/18, 6/22/18, 7/16/18, 8/3/18, 9/4/18, 11/6/18,
01/15/19, 1/29/19, 2/26/19, 3/26/19, 4/16/19;
04/29/19, 05/21/19, 5/28/19, 6/18/19, 7/2/19; 08/06/19,
10/15/19, 11/12/19, 11/21/19, 01/14/20, 3/3/20, 3/10/20,
04/07/20, 5/19/20, 6/16/20, 6/30/20, 7/14/20, 7/28/20,
8/4/20, 09/15/20, 10/27/20, 12/08/20, 1/21/21

Docket 1

Tentative Ruling:

**Tentative Ruling for 2/25/21:
Appearances required.**

(1) Current issues

(a) Debtor's refinance motion (dkt.1335, 1338); Opposition of Select Portfolio Servicing, Inc. ("Select" or "SPS," dkt.1346); Opposition of Bobs, LLC ("Bobs") (dkt.1349); Debtor's request to conduct inspection (dkt.1352); Order re hearing time (dkt.1353); Debtor's motions to strike (dkt.1354, 1355); Debtor's witness list (dkt.1356); Debtor's reply (dkt.1357, 1358); Debtor's exhibit book (dkt.1359); Order clarifying scope of hearing (dkt.1363); Bobs request for judicial notice ("RJN") (dkt.1364)

There is no tentative ruling. The parties are directed to address the issues in the papers, including particularly (i) whether the "sub rosa" plan doctrine applies to Debtor's proposed refinancing and distribution of proceeds, and (ii) if an evidentiary hearing regarding valuation of the Paramour property is required, whether this Court should visit the property as requested by Debtor, and the schedule and procedures for any such evidentiary hearing.

(b) Debtor's transactions out of the ordinary course?

At the hearing on 1/21/21 this Court set the following briefing schedule regarding Debtor's apparent renovations to her real property and her conduct of certain new/reopened lines of businesses without notice and approval by

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this Court (see the excerpts of the Tentative Ruling for that hearing, reproduced below). To memorialize this Court's oral ruling, the deadline for Debtor to file and serve her declaration(s) briefs is 3/2/21; the deadline for any response by parties in interest is 3/9/21; and the deadline for any reply by Debtor is 3/16/21. Thereafter this Court will determine whether to take the matter under submission, set a hearing, or take other action.

(2) Deadlines/dates. This case was filed on 3/6/18.

(a) Bar date: 8/24/18 (dkt. 367, timely served per dkt. 383)

(b) Plan/Disclosure Statement: TBD. See the **revised** "Procedures of Judge Bason" (available at www.cacb.uscourts.gov) (search for "Chapter 11: Plan").

(c) Continued status conference: 1/26/21 at 2:00 p.m. No written status report required.

(d) Limited Notice: A "Core Service List" has been established (see dkt.97, p.3:4-17, dkt.195), as modified by any updates (contact Debtor for latest list).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 1/21/21:

Appearances required.

(1) Current issues

(a) Motion (the "Reconsideration Motion," dkt.1289, 1300, 1304, 1305, 1318) regarding order (dkt.557) granting Debtor's motion to approve

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CONT...

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Chapter 11

settlement agreement (dkt.547); ...
[Intentionally omitted.]

(b) Evidentiary rulings regarding Reconsideration Motion
[Intentionally omitted.]

(c) Debtor's transactions out of the ordinary course?

Debtor's status reports disclose that she has "restarted" her businesses of buying and selling antiques, clothing consulting, and design. See Stat.Rpts. (dkt.1296, p.4:8-11, *and* dkt. 1320, pp.4:22-5:1). See *also* Debtor Decl. (dkt.1322) p.9:1-6. Other papers filed by Debtor disclose that she is "manufacturing custom designer pillows (which typically sell between \$500-\$1,000 each)." Dkt. 1322, p.4:11-16 & 9:1-6. In addition, although renovations to the Paramour property (dkt.1322, p.8:22-28) might well qualify as "ordinary course," this Court has concerns about what Debtor means by "renovations" and whether they really are ordinary course.

As noted in the tentative ruling for the (continued) status conference on 12/8/20, Debtor is directed to address (i) how, if Debtor previously had ceased engaging in various lines of business, restarting those lines now would qualify as "ordinary course" (11 U.S.C. 363(b)) and (ii) the historical cost/benefit and risks of those businesses. This Court takes judicial notice that Debtor repeatedly has been warned that she and any affiliated businesses must not "reopen" businesses (or engage in any other transactions out of the ordinary course) without notice to parties in interest and prior approval by this Court.

In addition to the legal requirements, there are practical concerns about Debtor acting without notice. For example, reopening closed lines of business typically involves up-front costs that the estate might not recover if the business is not successful; and some lines of business could expose the estate to liabilities.

These concerns are heightened by the history of this case. This Court previously found and concluded that Debtor failed to notify parties in interest, even including the co-owner of the Cliff's Edge business, of her acts regarding that business. This Court also found and concluded that Debtor: ... has disregarded her duties as a trustee for the benefit of creditors by ... reopening the Bridge [Tavern, LLC, aka Villain's Tavern.] business without notice or authorization by this Court ...

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[emphasis added]
* * *

Just as the debtor acknowledges that causing Bridge to sell its business is a transaction out of the ordinary course, so is causing Bridge to reopen its closed business [emphasis in original]. [Memorialization of [adopted] Tentative Rulings (dkt.239), at pp.13-14, para. "(d)"; see also *id.* (dkt.238, 239) *passim*.]

Alternatively, supposing for the sake of discussion that Debtor's reopening of businesses, renovations to the Paramour, and other activities can be shown to have been in the ordinary course of Debtor's business (which does not appear so, with the possible exception of renovations), at the very least Debtor was required to disclose the finances of every line of business. See Order (dkt.22), p.2:18-22 ("For all reporting purposes – including Monthly Operating Reports ('MORs'), disclosure statements, etc. – Debtor must disclose all income, expenses, assets, and liabilities of [any] affiliated businesses").

Contrary to that requirement, Debtor's MORs appear to provide only partial disclosure. Some individual items are listed - e.g., funds spent on "Items for resale." But there does not appear to be any separate accounting for different lines of the reopened business, nor any way to assess if any one line of business is losing money, making a profit, etc. Nor is it clear why some items are included in the DIP "general" account and others in the DIP "personal" account. Nor does Debtor's DIP Tax account appear to reflect any payment of sales taxes for any such businesses. See, e.g., MOR (11/30/20, dkt.1297), pp.2, 9 & 53; *but cf. id.* p.67 (P&L for Vintage Event Design, showing Nov. 2020 loss of \$4,681.22).

The tentative ruling is to set a **deadline of 2/2/21** for Debtor to file and serve papers responsive to the foregoing concerns, including:

(A) detailed statements of the historical and current profits or losses of each line of business engaged in by Debtor, including all associated expenses (except that, to the extent such information is already included in MORs or other filed documents, Debtor may incorporate specific information by reference);

(B) the exact time periods in which those business were operated historically and currently;

(C) what regulatory requirements apply to such businesses, including any permits, sales taxes, employment taxes, etc., and

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whether Debtor is in full compliance with all such regulatory requirements;
(D) whether Debtor is competent to run each line of business in which she is engaged;
(E) the potential risks of any such businesses; and
(F) what renovations have been performed at the Paramour, whether those renovations were performed by licensed contractors, whether permits were obtained for such renovations, the cost of such renovations, the increase in room rates or other revenues as a result of such renovations, and any other relevant information regarding such renovations.

For example, with respect to potential risks, the tentative ruling is that Debtor must address any liabilities to which the bankruptcy estate might be exposed if Debtor's pillows do not have fire-resistant filling or, conversely, if they have such filling but it causes allergic reactions. More broadly, Debtor must address whether she is competent to run her businesses - is she aware of issues such as fire retardance requirements, what furniture is or is not "antique," etc.?

The tentative ruling is to set a **deadline of 2/11/21** for any other party in interest who chooses to file and serve response papers to address whether Debtor has violated her duties and what consequences should follow, and a **deadline of 2/18/21** for any reply by Debtor. Then this Court anticipates determining whether to issue an order directing Debtor to show cause why this Court should not impose sanctions or other consequences, such as restricting or terminating her authorization to act as debtor in possession.

[Remainder intentionally omitted.]

[PRIOR TENTATIVE RULINGS OMITTED (for principal issues, see dkt. 238, 239, 528, 547, 557, 1330)]

Party Information

Debtor(s):

Dana Hollister

Represented By
David A Tilem
Mark A Kressel
Alan M Insul

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2:00-00000

Chapter

#0.00 ZoomGov Instructions for all matters on today's calendar:

Meeting ID: 160 742 3229

Password: 450522

Meeting URL: <https://cacb.zoomgov.com/j/1607423229>

Telephone: +1 669 254 5252 or +1 646 828 7666 or 833 568 8864 (Toll Free)

Please connect at least 5 minutes before the start of your hearing, and wait with your microphone muted until your matter is called. You do not need to call Chambers for advance approval. ZoomGov appearances are free.

Docket 0

Tentative Ruling:

- NONE LISTED -

United States Bankruptcy Court
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Tuesday, March 2, 2021

Hearing Room 1545

10:00 AM

2:17-23107 Didra L Brown

Chapter 13

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

DEUTSCHE BANK NATIONAL TRUST CO
VS
DEBTOR

Docket 144

*** VACATED *** REASON: APO

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Didra L Brown

Represented By
Sanaz Sarah Bereliani

Movant(s):

Deutsche Bank National Trust

Represented By
Robert P Zahradka

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 1545

10:00 AM

2:18-18445 Tiffani Marie Bowen

Chapter 13

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

LAKEVIEW LOAN SERVICING, LLC
vs
DEBTOR

Docket 40

Tentative Ruling:

Appearances required.

There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 42).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Tiffani Marie Bowen

Represented By
Jeffrey N Wishman

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CONT... Tiffani Marie Bowen

Chapter 13

Movant(s):

Lakeview Loan Servicing, LLC

Represented By
Christina J Khil
Nathan F Smith

Trustee(s):

Kathy A Dockery (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, March 2, 2021

Hearing Room 1545

10:00 AM

2:19-13702 Bryana Rae Ruth and Christopher L Ruth

Chapter 13

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

PENNYMAC LOAN SERVICES, LLC
vs
DEBTOR

Docket 33

*** VACATED *** REASON: APO

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Bryana Rae Ruth

Represented By
Kevin Tang

Joint Debtor(s):

Christopher L Ruth

Represented By
Kevin Tang

Movant(s):

PennyMac Loan Services, LLC

Represented By
Robert P Zahradka

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Tuesday, March 2, 2021

Hearing Room 1545

10:00 AM

2:19-15628 Ayesha Danielle Robbins

Chapter 13

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

U.S. BANK NATIONAL ASSOC
vs
DEBTOR

Docket 30

Tentative Ruling:

Appearances are not required.

Grant.

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

Termination

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

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

Effective date of relief

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

Co-debtor stay

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

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

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CONT... Ayesha Danielle Robbins

Chapter 13

are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Ayesha Danielle Robbins

Represented By
Ali R Nader

Movant(s):

U.S. BANK NATIONAL

Represented By
Natalie E Lea
James F Lewin

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Tuesday, March 2, 2021

Hearing Room 1545

10:00 AM

2:19-17523 Alba Judith Aldrete

Chapter 13

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

NATIONSTAR MORTGAGE LLC
vs
DEBTOR

Docket 39

Tentative Ruling:

Appearances required.

There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 41).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Alba Judith Aldrete

Represented By
Christopher J Langley

**United States Bankruptcy Court
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10:00 AM

CONT... Alba Judith Aldrete

Chapter 13

Movant(s):

Nationstar Mortgage LLC d/b/a Mr.

Represented By
Merdaud Jafarnia
Jennifer C Wong

Trustee(s):

Kathy A Dockery (TR)

Pro Se

United States Bankruptcy Court
Central District of California
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Tuesday, March 2, 2021

Hearing Room 1545

10:00 AM

2:19-23664 Liat Talasazan

Chapter 7

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

MICHAEL TREMBLAY, TRUSTEE
vs
DEBTOR

Docket 504

*** VACATED *** REASON: This matter is scheduled to be heard during
the 2:00 p.m. time frame.

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Liat Talasazan

Represented By
Giovanni Orantes
Luis A Solorzano

Movant(s):

Michael Tremblay, Trustee

Represented By
David I Brownstein

Trustee(s):

Caroline Renee Djang (TR)

Represented By
David Wood

**United States Bankruptcy Court
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Tuesday, March 2, 2021

Hearing Room 1545

10:00 AM

2:20-10595 Kenneth A Lindahl

Chapter 13

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

U.S. BANK NATIONAL ASSOC
vs
DEBTOR

Docket 83

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

Tentative Ruling:

Party Information

Debtor(s):

Kenneth A Lindahl

Represented By
Carl Shaff II

Movant(s):

U.S. BANK NATIONAL

Represented By
Diane Weifenbach

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

10:00 AM

2:21-10140 Alida Marie Henschel

Chapter 13

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

WILMINGTON TRUST, NATIONAL ASSOC
vs
DEBTOR

Docket 18

Tentative Ruling:

Grant in part and deny in part by requiring a "stay current" adequate protection order in the usual form (14 days' notice of missed payments; up to three opportunities to catch up after any missed payments; etc.).
Appearances are not required.

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

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Alida Marie Henschel

Represented By

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10:00 AM

CONT... Alida Marie Henschel

William G Cort

Chapter 13

Movant(s):

Wilmington Trust, National

Represented By
Cassandra J Richey

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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10:00 AM

2:18-15867 Andrew Mark Anderson

Chapter 13

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

WELLS FARO BANK, NA
vs
DEBTOR

Docket 99

Tentative Ruling:

Appearances are not required.

Grant as set forth below.

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

Termination

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

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

Effective date of relief

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

Co-debtor stay

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

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

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CONT... Andrew Mark Anderson

Chapter 13

by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Andrew Mark Anderson

Represented By
D Justin Harelik

Movant(s):

Wells Fargo Bank, N.A., d/b/a Wells

Represented By
Josephine E Salmon

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, March 2, 2021

Hearing Room 1545

10:00 AM

2:20-10948 Albert J Myles and Dejah L Myles

Chapter 13

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

SANTANDER CONSUMER USA INC.
vs
DEBTOR

Docket 44

Tentative Ruling:

Appearances required.

There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 48).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Albert J Myles

Represented By
Thomas B Ure

**United States Bankruptcy Court
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10:00 AM

CONT... Albert J Myles and Dejah L Myles

Chapter 13

Joint Debtor(s):

Dejah L Myles

Represented By
Thomas B Ure

Movant(s):

Santander Consumer USA Inc.

Represented By
Sheryl K Ith

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, March 2, 2021

Hearing Room 1545

10:00 AM

2:20-20997 Dimas Francisco Velasquez Hernandez

Chapter 7

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

YAMAHA MOTOR FINANCE CORP
vs
DEBTOR

Docket 9

Tentative Ruling:

Appearances are not required.

Grant as set forth below.

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

Termination

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

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

Effective date of relief

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

Co-debtor stay

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

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

**United States Bankruptcy Court
Central District of California
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Tuesday, March 2, 2021

Hearing Room 1545

10:00 AM

CONT... Dimas Francisco Velasquez Hernandez Chapter 7

by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Dimas Francisco Velasquez

Represented By
Daniel King

Movant(s):

Yamaha Motor Finance Corp.

Represented By
Karel G Rocha

Trustee(s):

Peter J Mastan (TR)

Pro Se

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

Tuesday, March 2, 2021

Hearing Room 1545

10:00 AM

2:21-10025 Carmen Zamora

Chapter 13

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

MERCEDES-BENZ FINANCIAL SERVICES
vs
DEBTOR

Docket 14

Tentative Ruling:

Appearances are not required.

Grant as set forth below.

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

Termination

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

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

Effective date of relief

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

Co-debtor stay

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

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

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

CONT... Carmen Zamora

Chapter 13

by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Carmen Zamora

Represented By
Rebecca Tomilowitz

Movant(s):

Mercedes-Benz Financial Services

Represented By
Sheryl K Ith

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, March 2, 2021

Hearing Room 1545

10:00 AM

2:16-25325 Karen Deshawn Taylor

Chapter 13

#13.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 5/19/20, 7/14/20, 8/18/20, 10/27/20, 12/8/20,
1/26/21

U.S. BANK NATIONAL ASSOCIATION
vs
DEBTOR

Docket 78

Tentative Ruling:

Tentative Ruling for 3/2/21:
Appearances required.

At the 1/26/21 hearing, this Court was persuaded to continue this matter because of the pending loan modification and for an adequate protection agreement. There is no tentative ruling, but the parties should be prepared to discuss (a) the status of the loan modification and/or (b) whether they will agree to the terms of an adequate protection order.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 1/26/21:
Appearances required.

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10:00 AM

CONT... Karen Deshawn Taylor

Chapter 13

This matter has been continued repeatedly since 5/19/20 for a possible loan modification or other resolution. The docket does not reflect any progress. Why not?

In addition, at the 12/8/20 hearing, this Court directed Debtor to give notice of the continued hearing no later than 12/10/20. As of the date of preparation for this tentative ruling, such notice has not been filed. Why not?

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 12/8/20:
Appearances required.

At the 10/27/20 hearing, this Court was persuaded to continue this matter based on the debtor's participation in the Loan Modification Management Pilot Program and completion of the three-month trial payments and to allow the parties an opportunity to complete the final paperwork. There is no tentative ruling, but the parties should be prepared to address whether they will agree to the terms of an adequate protection order.

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

**United States Bankruptcy Court
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10:00 AM

CONT... Karen Deshawn Taylor

Chapter 13

appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

**Tentative Ruling for 10/27/20:
Appearances required.**

At the 8/18/20 hearing, this Court was persuaded to continue this matter based on the debtor's participation in the Loan Modification Management Pilot Program. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, all appearances are telephonic via CourtCall at (888) 882-6878.

**Tentative Ruling for 8/18/20 (same as for 7/14/20 and 5/19/20 except for CourtCall deadline in brackets):
Appearances required.**

Pursuant to Judge Bason's COVID19 Procedures, **ONLY TELEPHONIC APPEARANCES WILL BE PERMITTED until further notice.** Please contact CourtCall at (888) 882-6878 to make arrangements for any telephonic appearance. There is no need to contact the Court for permission. Parties who are not represented by an attorney will be able to use CourtCall for free through [9/30/20]. Attorneys will receive a 25% discount (for more information, see www.cacb.uscourts.gov, "Judges," "Bason, N.," "Telephonic

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CONT... Karen Deshawn Taylor
Instructions").

Chapter 13

There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 82).

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

Party Information

Debtor(s):

Karen Deshawn Taylor

Represented By
Lionel E Giron

Movant(s):

U.S. Bank National Association

Represented By
Matthew R. Clark III
Sean C Ferry
April Harriott
Eric P Enciso

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

10:00 AM

2:20-10555 Christopher Omotunde

Chapter 13

#14.00 Cont'd hrg re: Motion for relief from stay [RP]
fr.7/7/20, 9/15/20, 12/1/20, 1/26/21

DEUTSCHE BANK NATIONAL TRUST CO
VS
DEBTOR

Docket 33

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

Tentative Ruling:

Party Information

Debtor(s):

Christopher Omotunde

Represented By
Stephen S Smyth

Movant(s):

Deutsche Bank National Trust

Represented By
Jennifer C Wong
Josephine E Salmon
JaVonne M Phillips

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, March 2, 2021

Hearing Room 1545

10:00 AM

2:20-11993 Tony Lavell Middleton

Chapter 13

#15.00 Cont'd hrg re: Motion for relief from stay [PP]
fr. 1/12/21

WHEELS FINANCIAL GROUP, LLC
vs
DEBTOR

Docket 33

***** VACATED *** REASON: Withdrawal of Motion Filed 02/25/2021
(dkt. 44)**

Tentative Ruling:

Party Information

Debtor(s):

Tony Lavell Middleton

Represented By
Steven A Alpert

Movant(s):

WHEELS FINANCIAL GROUP,

Represented By
Sheryl D Noel

Trustee(s):

Kathy A Dockery (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, March 2, 2021

Hearing Room 1545

10:00 AM

2:20-15207 Nora Alicia Saenz

Chapter 13

#16.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 1/26/21, 2/9/21

U.S. BANK, NATIONAL ASSOC
VS
DEBTOR

Docket 54

*** VACATED *** REASON: APO

Tentative Ruling:

Party Information

Debtor(s):

Nora Alicia Saenz

Represented By
Jaime A Cuevas Jr.

Movant(s):

U.S. Bank, National Association as

Represented By
Diane Weifenbach

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Tuesday, March 2, 2021

Hearing Room 1545

10:00 AM

2:20-15990 Adrian T Bean

Chapter 13

#17.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 1/5/21

MILL CITY MORTGAGE LOAN TRUST 2018-4
vs
DEBTOR

Docket 34

Tentative Ruling:

Tentative Ruling for 3/2/21:
Appearances required.

Based on the arguments and representations of the parties at the hearing on 1/5/21, this Court continued the matter to this date to allow time for the parties to negotiate the terms of an adequate protection stipulation. There is no tentative ruling. The parties should be prepared to provide an update on the status of any negotiations.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 1/5/21:
Appearances required.

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10:00 AM

CONT... Adrian T Bean

Chapter 13

There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 44).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Adrian T Bean

Represented By
Christopher J Langley

Movant(s):

Mill City Mortgage Loan Trust 2018

Represented By
Sean C Ferry
Kristin A Zilberstein

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 1545

10:00 AM

2:20-17525 Nicole R. Prause

Chapter 7

#18.00 Cont'd hrg re: Motion for relief from stay [NA]
fr. 01/05/21, 02/09/21

DONALD L. HILTON, JR.
VS
DEBTOR

Docket 32

***** VACATED *** REASON: This matter is scheduled to be heard at a
different time. See #13 at 11:00 a.m.**

Tentative Ruling:

Party Information

Debtor(s):

Nicole R. Prause

Represented By
Michael Jay Berger

Movant(s):

Donald L. Hilton, Jr.

Represented By
Jeffrey J Hagen

Trustee(s):

Elissa Miller (TR)

Pro Se

**United States Bankruptcy Court
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Los Angeles
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Tuesday, March 2, 2021

Hearing Room 1545

10:00 AM

2:20-17800 Ana Maria Ahmad

Chapter 13

#19.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 12/8/20, 1/12/21, 2/7/21

KESWICK FINANCIAL GROUP, INC.
VS
DEBTOR

Docket 22

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

Tentative Ruling:

Party Information

Debtor(s):

Ana Maria Ahmad

Represented By
Rabin J Pournazarian

Movant(s):

Keswick Financial Group, Inc.

Represented By
Arnold L Graff

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Tuesday, March 2, 2021

Hearing Room 1545

10:00 AM

2:21-10361 DOUGLAS E. WALLACE , JR

Chapter 13

#20.00 Cont'd hrg re: Motion in Individual Case for Order
Imposing a Stay or Continuing the Automatic
Stay as the Court Deems Appropriate
fr. 2/18/21

Docket 25

Tentative Ruling:

Tentative Ruling for 3/2/21:

Appearances are not required.

Grant.

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

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 2/18/21:

Appearances required.

The parties are directed to address the issues set forth in this Court's order (dkt. 27) setting this hearing. The tentative ruling, based on that order and Debtor's proof of service (dkt.29), is to grant the motion on an interim basis and set a continued hearing for 3/2/21 at 10:00 a.m. In addition, the

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10:00 AM

CONT... DOUGLAS E. WALLACE , JR

Chapter 13

tentative ruling is to set a deadline of 2/26/21 at 10:00 a.m. for any opposition to be filed on the docket and served on Debtor and the Chapter 13 Trustee, with any reply orally at the hearing, and to set a **deadline of 2/19/21** for Debtor to serve notice of the continued hearing and the opposition deadline, with a copy of the motion, on all parties in interest via U.S. mail.

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

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

DOUGLAS E. WALLACE JR

Represented By
Misty Wilks

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, March 2, 2021

Hearing Room 1545

11:00 AM

2:19-16732 Rodney Phillip Walker

Chapter 7

#1.00 Hrg re: Trustee's final report and account;
Application for fees and expenses
[Heide Kurtz, Ch. 7 Trustee]

Docket 78

Tentative Ruling:

Appearances are not required.

Approve the Trustee's final report and allow the Trustee \$7,000 in fees and \$96.42, for a total of \$7,096.42.

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

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Rodney Phillip Walker

Pro Se

Trustee(s):

Heide Kurtz (TR)

Represented By
Timothy J Yoo

**United States Bankruptcy Court
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Tuesday, March 2, 2021

Hearing Room 1545

11:00 AM

CONT... Rodney Phillip Walker

Carmela Pagay

Chapter 7

**United States Bankruptcy Court
Central District of California
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Tuesday, March 2, 2021

Hearing Room 1545

11:00 AM

2:19-16732 Rodney Phillip Walker

Chapter 7

#2.00 Hrg re: Application for payment of final fee and/or expenses (11 U.S.C. section 330) [Filed by Levene, Neale, Bender, Yoo & Brill L.L.P. attorney for Ch. 7 Trustee]

Docket 76

Tentative Ruling:

Appearances are not required.

Allow and authorize payment to LNBYB of \$24,540 in fees and \$457.55 in expenses, for a total award of \$24,997.55.

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

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Rodney Phillip Walker

Pro Se

Movant(s):

Heide Kurtz (TR)

Represented By

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11:00 AM

CONT... Rodney Phillip Walker

Chapter 7

Timothy J Yoo
Carmela Pagay

Trustee(s):

Heide Kurtz (TR)

Represented By
Timothy J Yoo
Carmela Pagay

**United States Bankruptcy Court
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Tuesday, March 2, 2021

Hearing Room 1545

11:00 AM

2:19-16732 Rodney Phillip Walker

Chapter 7

#3.00 Hrg re: First and final fee Application
[Hahn Fife & Co LLP, Accountant for
Ch. 7 Trustee]

Docket 74

Tentative Ruling:

Appearances are not required.

Allow and authorize payment to Hahn Fife & Company, LLP of \$1,496 in fees and \$288.30 in expenses, for a total award of \$1,784.30.

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

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Rodney Phillip Walker

Pro Se

Movant(s):

Hahn Fife & Co LLP

Pro Se

**United States Bankruptcy Court
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11:00 AM

CONT... Rodney Phillip Walker

Chapter 7

Trustee(s):

Heide Kurtz (TR)

Represented By
Timothy J Yoo
Carmela Pagay

**United States Bankruptcy Court
Central District of California
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Tuesday, March 2, 2021

Hearing Room 1545

11:00 AM

2:19-17738 Carolyn Yvonne Morgan

Chapter 7

#4.00 Hrg re: Motion for Order Disallowing Claim of Exemption

Docket 38

Tentative Ruling:

Please see the tentative ruling for the Trustee's motion to approve stipulation with the IRS and FTB (Calendar No. 5, 3/2/21 at 11:00 a.m.).

Party Information

Debtor(s):

Carolyn Yvonne Morgan

Pro Se

Trustee(s):

Howard M Ehrenberg (TR)

Represented By
Steven Werth

**United States Bankruptcy Court
Central District of California
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Tuesday, March 2, 2021

Hearing Room 1545

11:00 AM

2:19-17738 Carolyn Yvonne Morgan

Chapter 7

#5.00 Cont'd hrg re: Motion to Approve Stipulation Among Chapter 7 Trustee, the United States of America on Behalf of its Agency, the Internal Revenue Service, and the California Franchise Tax Board, for Avoidance of Liens that Secure Claims of a Kind Specified in Bankruptcy Code Section 724(a) fr. 2/9/21

Docket 32

Tentative Ruling:

Tentative Ruling for 3/2/21:
Appearances required.

The tentative ruling is to (i) grant the Trustee's motion to approve stipulation with the IRS and FTB and overrule Debtor's opposition, and (ii) continue the hearing on the Trustee's objection to Debtor's amended homestead exemption to **6/1/21** at 11:00 a.m.

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

Key documents reviewed:

Avoidance Motion: Trustee's Motion to approve stipulation among Chapter 7 Trustee, the United States on behalf of its agency, the Internal Revenue, and the California Franchise Tax Board, for avoidance of liens that secure claims of a kind specified in bankruptcy code section 724(a) (dkt. 32, "Avoidance Motion"), Debtor's opposition (dkt. 37), Trustee's reply (dkt. 41), Debtor's unauthorized sur-reply (dkt. 43), IRS's response (dkt. 44)

Homestead Objection: Debtor's amended schedule C (dkt. 36, "Second

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Amended Exemption"); Trustee's Motion for order disallowing Claim of Exemption (dkt. 38, "Homestead Objection"), Debtor's opposition (dkt. 45), Trustee's reply (dkt. 46)

Reasons:

(a) Background

Debtor filed this chapter 7 case on 7/2/19. Concurrent with the petition, Debtor filed her Schedule A disclosing her interest as "Trustee of the Morgan Family Trust" in real property located at 19911 Scobey Avenue, Carson, CA 90746 (the "Property") (dkt. 1, pdf p.12) and Schedule C asserting a homestead exemption in the Property, up to the fair market value, pursuant to "CCP 704.730(a)(3)(A); CCP 703.140(b)(1) and CCP 703.140(b)(5)" (*id.*, p.22, the "Original Homestead Exemption").

On 8/19/19 Debtor filed an Amended Schedule C asserting a homestead exemption in the Property in the amount of \$175,000 pursuant to CCP 704.730(a)(3) (dkt. 14, the "First Amended Homestead Exemption"). No party in interest timely objected to Debtor's First Amended Homestead Exemption within the time limits prescribed by Rule 4003(b)(1) (Fed. R. Bankr. P.).

On 1/5/21 the Trustee filed the Avoidance Motion. In response, Debtor filed an opposition and the Second Amended Exemption (dkt. 36). The Trustee then filed the Homestead Objection. Both matters have been fully briefed.

(b) Avoidance Motion

The Trustee seeks approval of a stipulation between the estate, on the one hand, and the Internal Revenue Service ("IRS") and Franchise Tax Board ("FTB"), on the other hand, pursuant to which the parties have stipulated to avoid and preserve certain portions of the IRS and FTB's secured claims for the benefit of the estate pursuant to 11 U.S.C. 724(a) provided that the Trustee market and sell the Property and distribute the sale proceeds in accordance with the terms of the parties agreement. Debtor argues that the proposed stipulation impairs her claimed homestead exemption on several grounds but, for the reasons set forth below, Debtor's arguments miss the point.

First, Debtor's right to receive sale proceeds pursuant to a claimed homestead exemption is not absolute; it is entirely dependent upon whether

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there is any equity in the homestead *after* deducting all secured claims (including both voluntary mortgage liens and involuntary tax liens). See 11 U.S.C. 522(b)(3)(C); see also *In re Tillman*, 2020 Bankr. LEXIS 1902, at *13 (Bankr. D. Ariz. July 17, 2020 (debtor could not use exemption because "[t]he value of Debtor's interest in the property, at all times, was no greater than the value of the Property, less the voluntary BofA lien ... and less the involuntary lien held by the IRS").

Accordingly, if Debtor's Property were to be sold for \$650,000 as hypothesized in the Trustee's motion, but without the contemplated settlement, this Court has calculated that the sale proceeds would be distributed as follows:

Sale price:	\$650,000
Less secured claim of Chase Bank:	(\$179,689)
Less secured claim of Bank of America:	(\$86,159)
Less secured claim of IRS:	(\$197,060.82)
Less secured claim of FTB:	(\$41,650.27)
Less 8% costs of sale:	(\$52,000)
Less anticipated capital gains tax:	(\$60,000)
Total equity left for Debtor's homestead exemption:	\$33,441.91

Second, pursuant to 11 U.S.C. sections 724(a) and 551, the Trustee can avoid a tax lien and preserve the value of the avoided lien for the benefit of the estate. Once the tax lien is avoided, the Trustee inherits the position of the entity whose lien was avoided. *Tillman*, 2020 Bankr. LEXIS 1902, at *16-17.

Accordingly, if this Court approves the proposed settlement providing for the avoidance of certain portions of the IRS and FTB's liens and Debtor's property sells for \$650,000, this Court has calculated that the sale proceeds would be distributed as follows:

Sale price:	\$650,000
Less secured claim of Chase Bank:	(\$179,689)
Less secured claim of Bank of America:	(\$86,159)
Less reduced secured IRS claim:	(\$118,459.31)
Less estate's carve-out from avoided IRS claim:	(\$78,601.51)
Less reduced secured FTB claim:	(\$20,121.96)
Less estate's carve-out from avoided FTB claim:	(\$21,528.31)
Less 8% costs of sale:	(\$52,000)

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Less anticipated capital gains tax: (\$60,000)

Total equity left for Debtor's homestead exemption: **\$33,441.91**

Under either of the above scenarios, Debtor's entitlement to any proceeds from her claimed homestead exemption would not exceed \$33,441.91. (Caveat: This Court has obtained the above dollar amounts from various filed documents in this case, and believes they are accurate; but, supposing for the sake of discussion that there were a mistake in any of this Court's numbers, any error by this Court would not be binding on any party because this is only an illustration, and the overall point remains that Debtor is not entitled to funds covered by liens - under the Bankruptcy Code, the liens are for the benefit of either the tax authorities or the estate, not Debtor.)

Therefore, Debtor has failed to establish that the proposed stipulation would somehow prejudice her interests or is not in the best interest of the estate. Rather, pursuant to the terms of the stipulation, the parties have agreed to carve-out additional funds so that Debtor would receive at least \$54,488.03 in funds. Dkt. 32, p.5:13-14.

In fact, as the above calculations show, Debtor arguably is receiving a windfall, and theoretically her creditors could object that she should receive less than what the stipulation provides. But it is in the nature of settlements that some leeway is appropriate. No party in interest has objected, let alone established that the Trustee has abused his discretion in his proposed allocation of the funds received by the estate among the IRS priority claim, general unsecured creditors, costs of administration (voluntarily reduced), and Debtor. To the contrary, the Trustee and his professionals appear to be reducing their own compensation to achieve an equitable result for Debtor and all creditors.

For all of these reasons, the tentative ruling is to grant the Avoidance Motion and approve the stipulation.

(c) Homestead Objection

The Trustee also seeks an order disallowing Debtor's Second Amended Homestead Exemption on the grounds that Debtor does not qualify for an increased homestead exemption under the newly enacted California Assembly Bill 1885 because it was not in effect as of the petition date. But the Trustee does not appear to be objecting to Debtor retaining the \$175,000 exemption claimed in her First Amended Homestead Exemption (dkt. 41,

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p.3:1-3) and based on this Court's calculations set forth above, if the Property sells for \$650,000 Debtor would only be entitled to \$33,441.91 from the sale proceeds (or \$54,488.03 pursuant to the Stipulation). Therefore, it is unnecessary for this Court to decide whether Debtor is entitled to a \$175,000 or \$600,000 homestead exemption unless the net sale price after payment of all liens exceeds \$175,000. For example, suppose the Property sells for \$800,000:

Sale price:	\$800,000
Less secured claim of Chase Bank:	(\$179,689)
Less secured claim of Bank of America:	(\$86,159)
Less reduced secured IRS claim:	(\$118,459.31)
Less estate's carve-out from avoided IRS claim:	(\$78,601.51)
Less reduced secured FTB claim:	(\$20,121.96)
Less estate's carve-out from avoided FTB claim:	(\$21,528.31)
Less 8% costs of sale:	(\$64,000)
<u>Less anticipated capital gains tax:</u>	<u>(~</u>
<u>\$60,000)</u>	
Total equity left for Debtor's homestead exemption:	\$179,441

Under this hypothetical, it might make a difference whether Debtor were entitled to a greater homestead exemption than \$175,000 because the net sales proceeds could exceed that amount depending upon the estimated capital gains taxes. The tentative ruling is to set a continued hearing as set forth at the start of this ruling to allow time for the Trustee to market and sell the Property.

(d) The pandemic, and housing concerns

Debtor notes that she is in her 70s, the Covid-19 pandemic is dangerous, family who potentially could take her in are not living nearby, and she might be exposed to health risks if she loses her home now. This Court is very much aware of and concerned by those issues; but this Court is not aware of any legal authority that would enable Debtor not to pay her creditors but to retain her home based on the issues she has highlighted.

The best this Court can do is to encourage the Trustee to work with Debtor to attempt to minimize any danger from the Trustee showing and selling the property, and Debtor moving out. In addition, this Court notes that

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various Federal, State, and Local programs may help ameliorate the dangers.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 2/9/21:

Continue to 3/2/21 at 11:00 a.m., concurrent with the Trustee's motion for order disallowing Debtor's homestead exemption (dkt. 39). Appearances are not required on 2/9/21.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Carolyn Yvonne Morgan

Pro Se

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Movant(s):

Howard M Ehrenberg (TR)

Represented By
Steven Werth

Trustee(s):

Howard M Ehrenberg (TR)

Represented By
Steven Werth

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2:18-12286 Kevin James Quinn

Chapter 7

Adv#: 2:18-01158 Duff v. Quinn

#6.00 Cont'd Status Conference re: Complaint for Objecting to Debtor's Discharge Pursuant to Section 727 of the Bankruptcy Code fr. 08/07/18, 11/27/18, 2/5/19, 3/28/19, 06/06/19; 08/08/19, 11/19/19, 02/18/20, 5/20/20, 6/2/20, 7/28/20, 9/15/20, 12/1/20, 1/26/21

Docket 1

Tentative Ruling:

Tentative Ruling for 3/2/21:

Continue to 4/6/21 at 11:00 a.m. to address any post-judgment issues.
Appearances are not required on 3/2/21.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Kevin James Quinn

Represented By
John F Wolcott

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Defendant(s):

Kevin James Quinn

Represented By
John F Wolcott

Plaintiff(s):

James T Duff

Represented By
James T Duff

Trustee(s):

David M Goodrich (TR)

Pro Se

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2:18-15829 Philip James Layfield
Adv#: 2:20-01688 Avery v. Keough

Chapter 7

- #7.00** Status conference re: Complaint for Judgment: (1) Avoiding Fraudulent Transfer Pursuant to 11 U.S.C. Section 544 and Cal. Civ. Code Section 3439.01; (2) Avoiding Fraudulent Transfer Pursuant to 11 U.S.C. Section 11 U.S.C. Section 544 and Cal. Civ Code Section 3439.01(A)(2); (3) Recovery of Fraudulent Transfer Pursuant to 11 U.S.C. Section 550; (4) Preserving Fraudulet Transfer Pursuant to 11 U.S.C. Section 551; and (5) Accounting and Turnover of Property of the Estate Pursuant to 11 U.S.C. Section 542(a)

Docket 1

Tentative Ruling:

Appearances required.

(A) Current issues

This Court has reviewed the status report (adv.dkt. 10) and the other filed documents and records in this adversary proceeding.

(1) Informal settlement discussions; compliance with rules; deadlines

Defendant has signed the status report, without legal counsel. She has not filled in any of the information to be provided by defendants on the form.

If the parties have not reached a settlement by the time of this status conference, the tentative ruling is (a) to caution Defendant that in future she must follow applicable rules (e.g., filling out status reports) and (b) to direct both parties to address whether mediation would be helpful and whether this Court should adopt the discovery cutoff and other deadlines set forth below.

(B) Standard requirements

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority

The parties are directed to address any outstanding matters of (a)

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

(2) Mediation

Is there is any reason why this Court should not order the parties to mediation before one of the volunteer mediators (*not* a Bankruptcy Judge), and meanwhile set the deadlines set forth below? The tentative ruling is to set a **deadline of 3/16/21** for the parties to lodge a proposed mediation order (the parties are directed to use the time between now and that deadline to find a mutually agreeable mediator whose schedule can accommodate the needs of this matter; and if the parties cannot even agree on a mediator they may lodge separate orders and Judge Bason will chose among them, or issue his own order).

(3) Deadlines

This adversary proceeding has been pending since 12/11/20. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Joinder of parties/amendment of pleadings-deadline: 5/19/21

Discovery cutoff (for completion of discovery): 6/2/21

Expert(s) - deadline for reports: 5/26/21

Expert(s) - discovery cutoff (if different from above): 6/2/21

Dispositive motions to be heard no later than: 7/27/21

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Philip James Layfield

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Joint Status Report: 4/13/21

Continued status conference: 4/27/21 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers, including direct testimony by declaration unless excused: TBD (for the format of exhibits and other trial procedures, please see the Procedures of Judge Bason (posted at www.cacb.uscourts.gov) then search for "Trial Practice" BUT, at least during the COVID-19 shut down of the courtroom, also see the forms of order regarding video trials, posted on Judge Bason's portion of the Court's above-referenced web page)

Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Philip James Layfield

Represented By
Anthony M Solis

Defendant(s):

Jeana Keough

Pro Se

Plaintiff(s):

Wesley H. Avery

Represented By
Jeffrey I Golden

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Trustee(s):

Wesley H Avery (TR)

Represented By
Jeffrey I Golden
Faye C Rasch
Beth Gaschen
Ryan W Beall

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2:18-22904 Sasha Demovsky-Kapustyan

Chapter 13

Adv#: 2:20-01666 Demovsky-Kapustyan v. Vayntrub et al

#8.00 Cont'd status conference re: Complaint for Turnover of Property of the Estate, Unjust Enrichment fr. 1/26/21

Docket 1

Tentative Ruling:

Tentative Ruling for 3/2/21:

Appearances required.

(A) Current issues

(1) Status of settlement negotiations

Based on the arguments and representations of the parties present at the hearing on 1/26/21, this Court continued the matter to this date to allow time for the nondefaulting parties to engage in potential settlement discussions. There is no tentative ruling. The parties should be prepared to provide an update on the status of any discussions and whether this Court should order the matter to mediation.

(2) Service on corporate defendant

Plaintiff/Debtor's status report (adv. dkt. 13) states that the corporate defendant's name has been changed and

Its address [sic] ... [was] not initially served [*i.e.*, the right entity was served, but at the wrong address?] ... (a different entity with a confusingly similar name was served) [*i.e.*, the wrong entity was served at the right defendant's address? or the wrong entity was served at a different address?] and accordingly the default entered against this party [which party? the actual corporate defendant, or the other entity with the similar name?] should be vacated [- but see below questioning whether or not default should be vacated]. * * * Several questions emerge which should be addressed at the status conference.

1. Should the default be vacated? [*i.e.*, is Plaintiff/Debtor suggesting that the default against the *wrong* entity should be

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Chapter 13

vacated, but the default against the *right* entity should be entered instead, on the theory that service on the right entity using its old name was good enough? or does Plaintiff/Debtor mean something different?]

2. Should the adversary complaint be amended to specifically name LOS ANGELES FARMERS, INC. [the current name of the corporate defendant]?

3. Is a new summons required?

4. Was service on LOS ANGELES FARMERS, INC. [*i.e.*, the right entity] properly executed on February 10 despite the name change?

Counsel is eager to push the case forward and seeks the court's guidance on these issues. [Emphasis added.]

The tentative ruling is that this Bankruptcy Court cannot provide legal advice to any party, but that (a) the complaint must be amended to include the actual name of all defendants and (b) if counsel for Plaintiff wishes to obtain a default judgment against the corporate defendant (despite whatever facts might establish deficiencies in service) then counsel will need to cite authority that service using an old name (or other possible deficiency) is sufficient. The parties are invited to address these and the other issues raised by Plaintiff/Debtor.

Meanwhile, it appears that Plaintiff/Debtor is conceding that the clerk's default (adv. dkt. 9) was entered against the wrong entity, and therefore that clerk's default should be vacated. The tentative ruling is to direct Plaintiff/Debtor to lodge a proposed order vacating that clerk's default (without prejudice to seeking a new default as against the correct entity, if appropriate).

Counsel for Plaintiff/Debtor is requested in future to provide more specific descriptions in any status report of the actual facts and circumstances, so that other parties and this Court do not have to spend time attempting to understand the status that is being reported.

Proposed order: Plaintiff/Debtor is directed to lodge a proposed order vacating the clerk's default via LOU within 7 days after the hearing date, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

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(B) Standard requirements

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.

(1) Venue/jurisdiction/authority

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (docket number(s) 10, at the hearings on 1/26/21).

(2) Mediation [Intentionally omitted].

(3) Deadlines

This adversary proceeding has been pending since 11/16/20.

Joinder of parties/amendment of pleadings-deadline: N/A

Discovery cutoff (for completion of discovery): N/A

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

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

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

Joint Status Report: 4/27/21

Continued status conference: 5/11/21 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: N/A

Pretrial conference: N/A

Deliver trial exhibits to other parties and chambers, including direct testimony by declaration unless excused: N/A

Trial commencement: N/A

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative

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rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Sasha Demovsky-Kapustyan

Represented By
Richard T Baum

Defendant(s):

David Vayntrub

Represented By
Charles Shamash
Joseph E. Caceres

Irena Vayntrub

Represented By
Charles Shamash
Joseph E. Caceres

Absolute Herbal Pain Solutions, Inc.

Represented By
Charles Shamash

Plaintiff(s):

Sasha Demovsky-Kapustyan

Represented By
Richard T Baum

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:20-11950 Armando Hernandez

Chapter 7

Adv#: 2:20-01164 Krasnoff v. Hernandez

- #9.00** Cont'd status conference re: Complaint (1) To Avoid Fraudulent Transfer Pursuant to 11 U.S.C. Sections 544 and 548; (2) To Recover Avoided Transfers Pursuant to 11 U.S.C. Section 550; (3) Automatic Preservation of Avoided Transfer Pursuant to 11 U.S.C. Section 551; and (4) Unjust Enrichment/Restitution fr. 10/27/20

Docket 1

Tentative Ruling:

Tentative Ruling for 3/2/21:

Continue to 4/6/21 at 11:00 a.m. to allow time for Plaintiff/Trustee to implement the terms of the parties settlement resolving this dispute (see main case, dkt. 38 & 45), subject to being vacated if this proceeding is dismissed before that time. Appearances are not required on 3/2/21.

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

Tentative Ruling for 10/27/20:

Appearances required.

This Court has reviewed the parties' joint status report (adv. dkt. 7) and the other filed documents and records in this adversary proceeding.

(A) Standard requirements

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status

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conference.)

Chapter 7

(1) Venue/jurisdiction/authority

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

(2) Mediation

Is there is any reason why this Court should not order the parties to mediation before one of the volunteer mediators (*not* a Bankruptcy Judge), and meanwhile set the deadlines set forth below? The tentative ruling is to set a **deadline of 11/10/20** for the parties to lodge a proposed mediation order (the parties are directed to use the time between now and that deadline to find a mutually agreeable mediator whose schedule can accommodate the needs of this matter; and if the parties cannot even agree on a mediator they may lodge separate orders and Judge Bason will chose among them, or issue his own order).

(3) Deadlines

This adversary proceeding has been pending since 7/24/20. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Joinder of parties/amendment of pleadings: 12/30/20 deadline.

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Hearing Room 1545

11:00 AM

CONT...

Armando Hernandez

Chapter 7

Discovery cutoff (for completion of discovery): 1/15/21

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

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

Dispositive motions to be heard no later than: 3/2/21

Joint Status Report: 2/18/21.

Continued status conference: 3/2/21 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: N/A

Pretrial conference: N/A

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: N/A

Trial commencement: N/A

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, all appearances are telephonic via CourtCall at (888) 882-6878.

Party Information

Debtor(s):

Armando Hernandez

Represented By
Michael Jay Berger

Defendant(s):

Erick Hernandez

Represented By
Andrew Edward Smyth

Joint Debtor(s):

Rita Hernandez

Represented By
Michael Jay Berger

Plaintiff(s):

Brad D. Krasnoff

Represented By

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CONT... Armando Hernandez

Chapter 7

Rosendo Gonzalez

Trustee(s):

Brad D Krasnoff (TR)

Represented By
Rosendo Gonzalez

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, March 2, 2021

Hearing Room 1545

11:00 AM

2:20-15862 Jose Luis Almendariz
Adv#: 2:20-01644 McLees v. Almendariz

Chapter 13

#10.00 Cont'd status conference re: Complaint for determination of nondischargeability of debt pursuant to 11 U.S.C. sections 523(a)(2) and (a)(4) fr. 12/22/20

Docket 1

Tentative Ruling:

Tentative Ruling for 3/2/21:

Continue as set forth below for the parties to participate in the mediation scheduled for 3/5/21. Appearances are not required on 3/2/21.

This Court has reviewed the parties' joint status report (adv.dkt. 32) and the other filed documents and records in this adversary proceeding.

(A) Standard requirements

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (adv. dkt. 22).

(2) Mediation

On 12/21/20 this Court entered an order assigning the matter to mediation (see adv. dkt. 24).

(3) Deadlines

This adversary proceeding has been pending since 10/6/20. [The deadlines have been memorialized in this Court's scheduling

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CONT...

Jose Luis Almendariz

Chapter 13

order (adv.dkt.26), except for the following, which need no written order.]

Joint Status Report: 3/23/21

Continued status conference: 4/6/21 at 11:00 a.m.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 12/22/20:

Continue as set forth below. Appearances are not required on 12/22/20.

This Court has reviewed the parties' joint status report (adv.dkt. 22) and the other filed documents and records in this adversary proceeding.

(A) Standard requirements

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (dkt. 22).

(2) Mediation

At a hearing on 12/1/20, this Court set a deadline of 12/22/20 for the parties to lodge a proposed order assigning this matter to mediation.

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CONT...

Jose Luis Almendariz

Chapter 13

(3) Deadlines

This adversary proceeding has been pending since 10/6/20. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Joinder of parties/amendment of pleadings: 6/1/21 deadline.

Discovery cutoff (for *completion* of discovery): 6/15/21.

Expert(s) - deadline for reports: 6/22/21

Expert(s) - discovery cutoff (if different from above): 6/29/21

Dispositive motions to be heard no later than: 8/17/21

Joint Status Report: 2/16/21

Continued status conference: 3/2/21 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers, including direct testimony by declaration unless excused: TBD

Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Jose Luis Almendariz

Represented By
Glenn Ward Calsada

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11:00 AM

CONT... Jose Luis Almendariz

Chapter 13

Defendant(s):

Jose Luis Almendariz

Represented By
Glenn Ward Calsada

Plaintiff(s):

Brian McLees

Represented By
Dawn M Coulson

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, March 2, 2021

Hearing Room 1545

11:00 AM

2:20-17672 Liberors LLC

Chapter 7

Adv#: 2:20-01664 Rhodes v. Liberors LLC

#11.00 Cont'd status conference re: First amended complaint by Alexander Rhodes against debtor Liberors LLC to determine nondischargeability of debt pursuant to 11 U.S.C. section 523(a)(6) fr. 1/26/21, 2/9/21

Docket 2

Tentative Ruling:

Appearances required.

This Court continued the 2/9/21 hearing on this matter to allow the parties to participate in the mediation scheduled for the same time. There is no tentative ruling, but the parties should be prepared to address the status of the mediation proceedings.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Liberors LLC

Represented By
Michael Jay Berger

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Tuesday, March 2, 2021

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11:00 AM

CONT... Liberors LLC

Chapter 7

Defendant(s):

Liberors LLC

Represented By
Carl Mueller
Michael Jay Berger

Plaintiff(s):

Alexander Rhodes

Represented By
Carl Mueller

Trustee(s):

Elissa Miller (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, March 2, 2021

Hearing Room 1545

11:00 AM

2:20-17672 Liberos LLC

Chapter 7

#12.00 Cont'd hrg re: Motion for relief from stay [NA]
fr. 12/8/20, 2/9/21

ALEXANDER RHODES
vs
DEBTOR

Docket 16

Tentative Ruling:

Tentative Ruling for 3/2/21:
Appearances required.

This Court continued the 2/9/21 hearing on this matter to allow the parties to participate in the mediation scheduled for the same time. There is no tentative ruling, but the parties should be prepared to address the status of the mediation proceedings.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 2/9/21:

Continue to 3/2/21 at 11:00 a.m. for the reasons set forth below.
Appearances are not required on 2/9/21.

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CONT...

Liberos LLC

Chapter 7

The parties have filed a stipulation (dkt. 24) continuing the hearing set for 2/9/21 to 3/2/21 because the parties are scheduled to proceed with mediation on 2/9/21. The tentative ruling is to continue this matter to the date and time set forth above.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 12/8/20:

Order mandatory mediation. Appearances required by Movant and (subject to any reservation of rights regarding service) by Debtor.

The tentative ruling is to order mandatory mediation for the reasons stated in calendar no. 4 (12/8/20 at 10:00 a.m.). Meanwhile, the tentative ruling is to order a continuance to **2/9/21 at 10:00 a.m.**, with a **deadline of 12/22/20** to lodge a proposed order appointing a mediator and directing the parties to mediation, and a **deadline of 12/15/20** to correct the following issue regarding service.

Service

The proof of service does not show service on both (i) Debtor's counsel and (ii) Debtor itself ("double service"), as required by Rules 7004(b)(9)&(g) and 9014(a), Fed. R. Bankr. P.). The tentative ruling is that this Court has neither the authority nor the inclination to excuse non-compliance with these rules. It is true that this double service requirement is the exact opposite of typical non-bankruptcy practice, in which it is generally impermissible to serve a represented party personally; but there are good reasons for the double

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CONT... **Liberos LLC**

Chapter 7

service rule in bankruptcy. It helps protect Debtor and the bankruptcy estate (*i.e.*, all parties in interest) from matters "falling through the cracks" given the high volume and speed of matters in typical bankruptcy cases, and the frequent use of service via U.S. mail.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Liberos LLC

Represented By
Michael Jay Berger

Movant(s):

Alexander Rhodes

Represented By
Carl Mueller

Trustee(s):

Elissa Miller (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 1545

11:00 AM

2:20-17525 Nicole R. Prause

Chapter 7

#13.00 Cont'd hrg re: Motion for relief from stay [NA]
fr. 01/05/21, 02/09/21

DONALD L. HILTON, JR.
VS
DEBTOR

Docket 32

***** VACATED *** REASON: Hearing continued to 4/27/21 at 11:00 a.m.
pursuant to stipulation (dkt. 70).**

Tentative Ruling:

Party Information

Debtor(s):

Nicole R. Prause

Represented By
Michael Jay Berger

Movant(s):

Donald L. Hilton, Jr.

Represented By
Jeffrey J Hagen

Trustee(s):

Elissa Miller (TR)

Pro Se

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11:00 AM

2:20-17525 Nicole R. Prause

Chapter 7

#14.00 Cont'd hrg re: Motion for relief from stay [NA]
fr. 12/8/20, 2/9/21

ALEXANDER RHODES
vs
DEBTOR

Docket 26

Tentative Ruling:

Tentative Ruling for 3/2/21:
Appearances required.

This Court continued the 2/9/21 hearing on this matter to allow the parties to participate in the mediation scheduled for the same time. There is no tentative ruling, but the parties should be prepared to address the status of the mediation proceedings.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 12/8/20:

Order mandatory mediation including all parties seeking nonbankruptcy/nondischargeable judgments against Debtor. Appearances required.

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Hearing Room 1545

11:00 AM

CONT... Nicole R. Prause

Chapter 7

Analysis:

This Court has reviewed the Motion for Relief from Stay (dkt. 26, 28), Debtor's Opposition (dkt. 30), Movant's reply (dkt. 35), and the other filed documents and records in this case, including Debtor's Bankruptcy Schedules (dkt. 10). It appears that the Movant (Alexander Rhodes) and similarly situated persons Aaron M. Minc and Donald L. Hilton, Jr. (collectively, "Plaintiffs") (see, e.g., dkt. 20-28) have long-running disputes including nonbankruptcy litigation with Debtor involving mutual accusations of false and harmful statements posted in various internet *fora*. See, e.g., dkt. 26, Ex. 1, pp. 6:15–28, 7:1–10.

It appears that Plaintiffs seek (1) nondischargeable monetary judgments under 11 U.S.C. 523 and/or (2) injunctive relief, including for alleged postpetition statements. See, e.g., Reply (dkt. 35), p.4:9-18 (alleged postpetition statements). Meanwhile, Debtor appears to allege that Plaintiffs have engaged in an ongoing scheme to defame and harass her, including alleged threats or encouragement of threats of violence against her.

Based on the foregoing summary, and the following additional analysis, this matter appears to be crying out for mediation.

(1) Cost/benefit for Plaintiffs

(a) Costs

Litigation is expensive. For Plaintiffs that expense now includes two motions for relief from the automatic stay that are each over 1,000 pages in length - which is extraordinary (and, as an aside, not very effective). Although those 1,000 pages might not have involved a lot of care and attention - they include a large volume of hearsay and repetition - nevertheless it must have taken more than a minimal amount of time for attorneys to assemble those 1,000 pages, and that is just one tiny aspect of the parties' litigation.

The parties have also engaged in discovery disputes and motion practice about jurisdiction and venue in nonbankruptcy courts. That is only the beginning. In other words, the costs of litigation are likely to be very substantial.

(b) Benefits

As for any monetary benefit, even if Plaintiffs were to prevail in their nondischargeability litigation, their judgments probably would be uncollectible. Debtor alleges that she has \$-0- of current income, not much future earning

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11:00 AM

CONT...

Nicole R. Prause

Chapter 7

capacity (based on her reported past income), and no assets that can be seized (nothing other than exempt retirement funds etc.). Dkt. 10, *passim*.

Of course, this Court recognizes that Plaintiffs believe Debtor has failed to report assets and earning capacity. But even if, for example, Debtor has omitted one or more grants to engage in research, that does not mean that Debtor ultimately could pay any nondischargeable judgment. This Court takes judicial notice that most such grants do not result in any great income - most of the grant tends to be spent on employees and other expenses, leaving only a modest income for the principal researcher(s).

In addition, even if (a) Plaintiffs were to obtain nondischargeable judgments and (b) Debtor's income were greater than it appears, either now or in future, that might not make the judgments any more collectible. Debtor might well be able to evade collection for a few years and then file a chapter 13 bankruptcy case and obtain the "superdischarge." That might well eliminate any nondischargeable debts of the type that Plaintiffs seek. See, e.g., 11 U.S.C. 523(a)(6) and 1328(a)(2)&(4) (superdischarge of debts even if they involved willful or malicious behavior).

As for any injunctive relief, Plaintiffs may face an uphill battle in any attempt to obtain a prior restraint on Debtor's rights of free speech. In addition, unless a court is willing to grant a sweeping restraint, there may be more litigation every time the parties post their views and one of them alleges defamation or similar claims.

In sum, if Plaintiffs pursue litigation they might well spend a lot, and get little or no effective monetary or injunctive relief.

(2) Cost/benefit for Debtor

(a) Costs

On the one hand, at least some of Debtor's litigation expenses appear to be covered under an insurance policy. But as Debtor has noted, the provider has cautioned that coverage might not extend to future litigation expenses and/or judgments. See dkt. 30, p.6:8-25 & Ex. B at PDF pp.68-70. In addition, some litigation expenses apparently are not covered even now, because Debtor alleges that defending against these actions pushed her into bankruptcy. Dkt. 30, p.5:14-17.

Moreover, costs are not measured in dollars and cents alone. Debtor's time is valuable, and it could be eaten up by Plaintiffs' multiple lawsuits, against which she will have to defend herself on multiple fronts, That will take

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CONT... Nicole R. Prause

Chapter 7

away from her ability to gain a fresh start and move on with her life.

(b) Benefits

As for any counterclaims by Debtor against Plaintiffs, they would be expensive to litigate. In addition, on the (admittedly very limited) record presented to this Court, any such counterclaims appear to be unlikely to result in any financial recoveries or injunctive relief, for the reasons discussed below.

(3) Obstacles to either Debtor or Plaintiffs achieving "vindication"

No doubt both Debtor and the Plaintiffs hope to achieve vindication of their positions through litigation. That seems unlikely.

This Court has reviewed the more-than 1,000 pages filed by Movant, as well as Debtor's opposition, the complaints in the adversary proceedings, and the other filed documents in this case. Although this Court is not at this time reviewing the elements of any claims or defenses for defamation or other alleged acts or omissions - and although this Court does not in any way wish to pre-judge any issues - it seems likely that any judge or jury would have a great many ways in which to find a lack of intent, a lack of cognizable damage, or other missing elements or successful defenses to both sides' claims. The path to any truly satisfactory vindication seems very narrow and difficult.

To be clear, the parties' competing tweets and other communications might well include untrue accusations and very offensive statements. But some of those things might well be understandable in context, and others are ambiguous or might be based on justifiable misunderstandings or reactions in the heat of the moment. A clear vindication seems unlikely.

(4) Mediation is flexible and powerful

In this Court's experience, mediation can result in much more effective and useful resolution than litigation. That does not mean either side is happy. But often it is still the best result.

For example, perhaps Debtor could agree that, instead of posting her own comments regarding Movant or NoFap, she could instead notify Movant of whatever content she finds offensive or threatening and believes might be attributable to Movant or his affiliates, and then Movant would be obligated to post a comment reiterating the NoFap terms of use and stating that NoFap does not condone certain posts. Or perhaps the parties could agree that

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CONT... Nicole R. Prause

Chapter 7

Tweets would be reported to Twitter, using agreed language of some sort.

These are only hypothetical examples, and perhaps they completely miss the mark. But that is actually the point. This Court, or any judge or jury, might well miss the mark in any litigation. In contrast, the parties themselves know best what they want, and mediation might help them achieve more of that than any judge or jury could award.

(5) Conclusion

The tentative ruling is to continue this hearing on the motion for relief from stay to **2/9/21 at 10:00 a.m.**, with a **deadline of 12/22/20** to lodge a proposed order appointing a mediator and directing the parties to mediation.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Nicole R. Prause

Represented By
Michael Jay Berger

Movant(s):

Alexander Rhodes

Represented By
Carl Mueller

Trustee(s):

Elissa Miller (TR)

Pro Se

**United States Bankruptcy Court
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11:00 AM

2:20-17525 Nicole R. Prause

Chapter 7

#15.00 Cont'd hrg re: Motion for relief from stay [NA]
fr. 12/8/20, 2/9/21

AARON M. MINC
vs
DEBTOR

Docket 20

Tentative Ruling:

**Tentative Ruling for 3/2/21:
Appearances required.**

(1) Mandatory Mediation

This Court continued the 2/9/21 hearing on this matter to allow the parties to participate in the mediation scheduled for the same time. There is no tentative ruling, but the parties should be prepared to address the status of the mediation proceedings.

(2) Service

In its tentative ruling for the 2/9/21 hearing, this Court directed Debtor to file with the Court a completed proof of service for her opposition (dkt. 60) no later than **February 16, 2021**. As of the date this tentative ruling was prepared, no completed proof of service has been filed. The service issue notwithstanding, has Movant had an opportunity to review the opposition? If so, Movant is directed to reply to the opposition, which reply may be made orally at the hearing.

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

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CONT... Nicole R. Prause

Chapter 7

COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 2/9/21:

Continue to 3/2/21 at 11:00 a.m. for the reasons set forth below.

Appearances are not required on 2/9/21.

(1) Mandatory Mediation

At the 12/8/20 hearing, this Court ordered mandatory mediation and continued the hearing to 2/9/21. The Court has been informed that that mediation is scheduled for 2/9/21. See dkt. 65. The tentative ruling is to continue this matter to the date and time set forth above to be heard contemporaneously with the other matters ordered to mediation.

(2) Service

Debtor has filed an opposition to the motion for relief from automatic stay. Dkt. 60. The proof of service included with the opposition is blank (dkt. 60, PDF p. 4) and movant does not appear on the list of recipients of electronic notice. The tentative ruling is that Debtor must properly serve movant with the opposition, if she has not done so already, and to file with the Court a completed proof of service no later than **February 16, 2021**.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

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11:00 AM

CONT... Nicole R. Prause

Chapter 7

Tentative Ruling for 12/8/20:

Order mandatory mediation. Appearances required by Movant and (subject to any reservation of rights regarding service) by Debtor.

The tentative ruling is to order mandatory mediation for the reasons stated in calendar no. 4 (12/8/20 at 10:00 a.m.). Meanwhile, the tentative ruling is to order a continuance to **2/9/21 at 10:00 a.m.**, with a **deadline of 12/22/20** to lodge a proposed order appointing a mediator and directing the parties to mediation, and a **deadline of 12/15/20** to correct the following issue regarding service.

Service

The proof of service does not show service on both (i) Debtor's counsel and (ii) Debtor individually ("double service"), as required by Rules 7004(b)(9)&(g) and 9014(a), Fed. R. Bankr. P.). Although the proof of service (dkt. 25) lists Debtor's name, the corresponding address does not match the Debtor's mailing address. The tentative ruling is that this Court has neither the authority nor the inclination to excuse non-compliance with these rules. It is true that this double service requirement is the exact opposite of typical non-bankruptcy practice, in which it is generally impermissible to serve a represented party personally; but there are good reasons for the double service rule in bankruptcy. It helps protect Debtor and the bankruptcy estate (*i.e.*, all parties in interest) from matters "falling through the cracks" given the high volume and speed of matters in typical bankruptcy cases, and the frequent use of service via U.S. mail.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative

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CONT... Nicole R. Prause

Chapter 7

rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Nicole R. Prause

Represented By
Michael Jay Berger

Movant(s):

Aaron M Minc

Pro Se

Trustee(s):

Elissa Miller (TR)

Pro Se

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2:20-17525 Nicole R. Prause

Chapter 7

Adv#: 2:20-01663 Rhodes v. Prause

#16.00 Cont'd status conference re: First amended complaint by to determine nondischargeability of debt pursuant to 11 U.S.C. section 523(a)(6) fr. 1/26/21, 2/9/21

Docket 2

Tentative Ruling:

Appearances required.

This Court continued the 2/9/21 hearing on this matter to allow the parties to participate in the mediation scheduled for the same time. There is no tentative ruling, but the parties should be prepared to address the status of the mediation proceedings.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Nicole R. Prause

Represented By
Michael Jay Berger

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CONT... Nicole R. Prause

Chapter 7

Defendant(s):

Nicole R. Prause

Represented By
Michael Jay Berger

Plaintiff(s):

Alexander Rhodes

Represented By
Carl Mueller

Trustee(s):

Elissa Miller (TR)

Pro Se

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2:20-17525 Nicole R. Prause

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Adv#: 2:20-01662 Minc v. Prause

#17.00 Cont'd hrg re: Motion to Stay the Adversary Proceeding
fr. 12/8/20, 2/9/21

Docket 3

Tentative Ruling:

Tentative Ruling for 3/2/21:

Please see the tentative ruling for the status conference (Calendar No. 18,
3/2/21 at 11:00 a.m.).

Tentative Ruling for 2/9/21:

Please see the tentative ruling for the status conference (Calendar No. 21,
2/9/21 at 10:00 a.m.).

Party Information

Debtor(s):

Nicole R. Prause

Represented By
Michael Jay Berger

Defendant(s):

Nicole R. Prause

Represented By
Michael Jay Berger

Movant(s):

Aaron M Minc

Pro Se

Plaintiff(s):

Aaron M Minc

Pro Se

Trustee(s):

Elissa Miller (TR)

Pro Se

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2:20-17525 Nicole R. Prause

Chapter 7

Adv#: 2:20-01662 Minc v. Prause

#18.00 Cont'd status conference re: Complaint for monetary and equitable relief and demand for a jury trial fr. 01/26/21, 2/9/21

Docket 1

Tentative Ruling:

Tentative Ruling for 3/2/21:
Appearances required.

This Court continued the 2/9/21 hearing on this matter to allow the parties to participate in the mediation scheduled for the same time. There is no tentative ruling, but the parties should be prepared to address the status of the mediation proceedings.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 2/9/21:

Continue to 3/2/21 at 11:00 a.m. for the reasons set forth below.
Appearances are not required on 2/9/21.

At the 12/8/20 hearing, this Court stayed this adversary proceeding and continued the status conference concurrent with the date of the related

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motions for relief from the automatic stay in the lead bankruptcy case. Those motions were continued to 2/9/21 and are being further continued. The tentative ruling is to continue this matter to the date and time set forth above to be heard contemporaneously with those motions.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 12/8/20:

Grant in part and continue in part, as provided below. Appearances are not required on 12/8/20.

The tentative ruling is to stay this adversary proceeding until further order of this Court, and hold a continued status conference concurrent with whatever date is selected for the related motions for relief from the automatic stay (see calendar nos. 3-5, 12/8/20 at 10:00 a.m.).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative

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CONT... Nicole R. Prause

Chapter 7

rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Nicole R. Prause

Represented By
Michael Jay Berger

Defendant(s):

Nicole R. Prause

Represented By
Michael Jay Berger

Plaintiff(s):

Aaron M Minc

Pro Se

Trustee(s):

Elissa Miller (TR)

Pro Se

**United States Bankruptcy Court
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1:00 PM

2:21-10956 LAX In-Flite Services, LLC

Chapter 11

#1.00 Cont'd Status Conference re: Chapter 11 Case
fr. 02/25/21

Docket 1

Tentative Ruling:

Tentative Ruling for 3/2/21:

Appearances required by counsel for Debtor and Debtor's principal.

(1) Current issues

(a) Budget motion

Debtor's status report states that a budget motion is not required by the presiding judge's procedures. Stat.Rpt. (dkt. 17), p.3. That is wrong (see posted "Procedures of Judge Bason," available at cacb.uscourts.gov).

Judge Bason recognizes that most transactions in the "ordinary course" do not require court approval. 11 U.S.C. 362(b)&(c). But debtors in bankruptcy have been known to misunderstand or mischaracterize what is "ordinary course." *See generally In re Dant & Russell, Inc.*, 853 F.2d 700, 703-06 & nn.4-7 (9th Cir. 1988) (horizontal and vertical tests for what is "ordinary course").

Judge Bason also recognizes that Debtor claims to be operating at a loss because of "the cost of doing business in California" and the COVID-19 pandemic. Stat.Rpt. (dkt.17), Addendum, p.1:21-24 (at PDF p.13). But, as Debtor discloses in its attorneys' employment application, it shares services with affiliates "including" (but perhaps not limited to) "shared marketing, customer service, accounting, and staffing." Dkt.13, p.3:2-3. In such situations there is a danger that, for example, Debtor could be unintentionally or intentionally over-paying for such services (measured by the horizontal or vertical test), possibly as a way of (i) transferring funds to affiliates without having to make equity distributions and (ii) reducing its reported income.

Such concerns about potential under-disclosure of Debtor's income (and value) are heightened because Debtor contemplates that insiders will purchase substantially all of Debtor's assets as a going concern, apparently without overbids. Debtor claims that its business only has value to insiders, and that "the costs of conducting an auction sale to third parties" would be too

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great. Stat.Rpt. (dkt.17), Addendum, p.2:2-9 (at PDF p.14).

To be clear, this Court makes no presumption that Debtor is actually engaging in any overpayments to affiliates, nor whether any transfers to affiliates would be improper in any way (*e.g.*, some tax planning is entirely legal and appropriate). The point is only that, without disclosure, there is no way to know.

The tentative ruling is to set a **deadline of 3/9/21** for Debtor to file and serve its budget motion, together with whatever briefing and declaration(s) are necessary or appropriate to address the foregoing issues.

(b) Affiliate reporting

Debtor requests to be excused from this Court's requirement that it disclose all income, expenses, assets, and liabilities of its affiliates because it is part of a larger structure and requiring such disclosure would be expensive and burdensome. Dkt. 17, PDF p.14:19-22. But Debtor fails to provide any meaningful discussion of what "larger structure" Debtor refers to, who its affiliates are, or how creditors can have an understanding of Debtor's shared services with affiliates (such as accounting, marketing, etc.), without disclosure of affiliates' finances. Debtor is directed at the Status Conference to provide further detail about its corporate structure and why this Court's reporting requirements would be overly burdensome, relative to the benefits to creditors of the additional disclosures.

The tentative ruling is that on an interim basis only partial disclosure will be required, but such partial disclosure must provide parties in interest, including the Subchapter V Trustee, with adequate information to assess the costs and benefits of Debtor's transfers to and from affiliates. The tentative ruling is that if such partial disclosure is inadequate, then full disclosure will be required.

For example, it would be insufficient to disclose that Debtor contributes no net income to its family of affiliates while receiving benefits such as accounting services (preparation of tax returns). That hypothetical disclosure would paint a picture of Debtor receiving far more than it gives; but the hypothetical fails to disclose all transfers to affiliates, including payments for supplies, shared services, etc. Nor would such a hypothetical disclosure provide any sense of whether the accounting services provided to Debtor are greater or less than such services provided to affiliates (either in absolute terms, or relative to the size of affiliates' budgets). In sum, such a

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hypothetical disclosure would not provide adequate information for any cost/benefit assessment.

The tentative ruling is to set a **deadline of 3/23/21** for whatever briefing and declaration(s) are necessary or appropriate to address the foregoing issues.

(c) Apparent non-disclosure of affiliate transactions

As noted above, Debtor's shared services with affiliates were disclosed in the employment application of its bankruptcy counsel. This Court is concerned that associated disclosures were not made in other documents that appear to require such disclosures.

(i) No prepetition transfers reported in Statement Of Financial Affairs ("SOFA")

Questions 3, 4, and 30 of Debtor's SOFA (dkt.1, p.11, at PDF p.49) require disclosure of all transfers of anything of value to creditors (whether or not they are affiliates) within 90 days prepetition and all transfers to insiders (which includes affiliates) within one year prepetition. Debtor does not disclose any such transfers, despite Debtor's extensive shared services with its affiliates, and despite well over \$2 million owed to apparent affiliates with "Elite" in their name. See Bankruptcy Schedule E/F, dkt.1, p.6, at PDF p.26.

Is it really true that Debtor's affiliates provided millions of dollars of services over several years, but did not require any payments at all from Debtor during the year prepetition? If Debtor really was losing money at such a drastic rate, why did the affiliates continue to fund Debtor and why are they interested in purchasing Debtor's assets as a going concern?

(ii) No postpetition transfers reported in Status Reports

Similarly, despite the extensive shared services, Debtor's chapter 11 status report (dkt.17) asserts that Debtor has not made any postpetition transfers to insiders - which includes affiliates (11 U.S.C. 101(31)(E)). See Status Report (dkt.17), p.3, item B.3. Is that really true?

(iii) Postpetition loans, or equity contributions?

If Debtor's affiliates really have been subsidizing it postpetition, have they been extending credit to Debtor without notice and a hearing? See 11 U.S.C. 364. Alternatively, perhaps Debtor's affiliates have been making equity contributions rather than loans; but again that only heightens the concern that the affiliates' willingness to fund Debtor and purchase its assets as a going concern seems inconsistent with Debtor's assertion that it

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consistently operates at a loss.

In any event, neither any loans nor any equity contributions from affiliates are disclosed in the employment application of Debtor's proposed bankruptcy counsel. Why not?

(iv) Caveat

Again, this Court makes no presumptions regarding what actually has or has not occurred, or whether there is anything wrong with what Debtor and its affiliates and proposed bankruptcy counsel have done. On their face, Debtor's disclosures appear to show that its affiliates have been extraordinarily generous and forgiving when it comes to extending credit or equity contributions to Debtor, and perhaps a sale to affiliates is the only way to preserve jobs and maximize any recovery for creditors. But without further disclosures it is impossible to know if Debtor's representations are accurate.

(d) Funding of Debtor's proposed bankruptcy counsel by affiliates

The employment application of Debtor's counsel (dkt. 13, 14, 15) discloses such counsel received \$50,000 in funds from Debtor's 63% member and general unsecured creditor, Elite GG&K Associates, LLC ("Elite GGK"). Empl.App. (dkt. 13), pp.6:26-7:13. Although Debtor and its proposed counsel assert that the \$50,000 was a gift, there is no declaration from Elite GGK saying so, and verifying the other representations by Debtor's proposed counsel. In addition, Elite GGK has a prepetition claim of \$857,000.00. See Bankruptcy Schedule E/F (dkt.1), p.6 (at PDF p.26).

As stated in the "Posted Procedures of Judge Bason" (available at www.cacb.uscourts.gov):

Retainer paid by third party. Declarations and/or briefs generally are required to address the ethical concerns involved whenever a retainer is paid by a third party. See Cal. Rule of Prof'l Conduct 1.8.6; *In re 9469 Beverly Crest, LLC* (Case No. 2:19-bk-20000-NB, dkt.44).

The tentative ruling is to set **a deadline of 3/9/21** for Debtor to file and serve whatever briefing and declaration(s) are necessary or appropriate to address the foregoing issues.

(2) Dates/procedures. This case was filed on 2/5/21.

(a) Bar date: 4/16/21 per General Order 20-01 (70 days after petition date in Subchapter V cases) (DO NOT SERVE any notice: one

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LAX In-Flite Services, LLC

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has already been sent, see dkt.16).

(b) Procedures order: dkt.3 (timely served, dkt.9)

(c) Plan/Disclosure Statement: file by 5/6/21 (DO NOT SERVE - except on the U.S. Trustee). See the **revised** "Procedures of Judge Bason" (available at www.cacb.uscourts.gov) (search for "Chapter 11: Plan").

(d) Continued status conference: 4/6/21 at 1:00 p.m. No written status report required.

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

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 2/25/21:

Appearances required by counsel for Debtor (pursuant to this Court's Procedures Order (dkt. 3), Debtor's principal is not required to appear at this Status Conference, but is required to appear at the status conference on 3/2/21 at 1:00 p.m.).

(1) Current issues

(a) Payroll motion (dkt. 19), order shortening time ("OST," dkt. 20), notice/proofs of service (dkt.22, 23)

On the one hand, service appears to be defective. On the other hand, subject to any opposition at the hearing, it appears that this Court can, and should, grant relief anyway.

(i) Defective service

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As for service, the OST set this hearing on extremely short time - a hearing on 2/25/21 based on a telephonic request and motion on 2/22/21 - but in exchange Debtor was required to serve most creditors via overnight delivery, personal delivery, or other proper method of service, for receipt **no later than 2/23/21**. It appears that did not happen.

The proofs of service (dkt.22, 23) appear to show service on many creditors via U.S. mail, which is presumed to take 3 days (per Rule 9006(f), Fed. R. Bankr. P.) and therefore would arrive after the hearing. That is inadequate.

Many other creditors are shown as being served via email, and such service is ineffective absent consent (such as the consent provided by creditors who have agreed to be served via this Court's "NEF" system, by registering for CM/ECF privileges). The OST itself reminds litigants of that limitation. See dkt. 20, p.3 ("Service by electronic means (facsimile or email) requires compliance with F.R.Civ.P. 5(b)(2)(E)."); *and see* Rules 4(d) (waiving service) *and* 5(b)(2)(E) (regarding service via "electronic means that the person consented to in writing") (Fed. R. Civ. P.) (both incorporated by Rule 9014(b), Fed. R. Bankr. P.).

Moreover, although it is not entirely clear what Bankruptcy Rules apply to a payroll motion, some sort of "notice and a hearing" or opportunity for a hearing are almost universally required for any sort of motions in bankruptcy cases. See *generally* 11 U.S.C. 102(1). Traditionally, payroll motions usually are required to be served on the 20 largest unsecured creditors and other types of key creditors, as the OST provides.

(ii) Granting relief anyway

Despite the foregoing concerns, this Court recognizes that paying employees usually is critical, both (A) for the benefit of all parties with a stake in maintaining a debtor's going concern value and (B) in fairness to the employees who are providing their labor in reliance on the promise of payment. In addition, this Court is authorized and required, "at any time" and "with or without a hearing," to condition the use of any property of the bankruptcy estate on whatever terms are necessary to provide adequate protection of any interest in such property (11 U.S.C. 363(e)); and in this instance the tentative ruling is that Debtor, as a debtor in possession acting as a trustee for the benefit of creditors and all parties in interest, is requesting the authority to use estate funds in a way that is necessary to protect the

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interests of persons with an interest in the bankruptcy estate, by paying employees and maintaining Debtor's going concern value. Therefore the tentative ruling is that this Court is authorized, and indeed required, to grant the payroll motion at this time, without a hearing or further notice; but with a warning to Debtor and its counsel that this is a truly exceptional type of motion and that usually the failure to serve papers as required by an OST and/or any applicable rules would result in denial of a motion.

(2) Dates/procedures. This case was filed on 2/5/21.

- (a) Bar date: 4/16/21 per General Order 20-01 (70 days after petition date in Subchapter V cases) (DO NOT SERVE any notice: one has already been sent, see dkt.16).
- (b) Procedures order: dkt.3 (timely served, dkt.9)
- (c) Plan/Disclosure Statement: file by 5/6/21 (DO NOT SERVE - except on the U.S. Trustee). See the **revised** "Procedures of Judge Bason" (available at www.cacb.uscourts.gov) (search for "Chapter 11: Plan").
- (d) Continued status conference: 3/2/21 at 1:00 p.m. No written status report required.

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

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

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Chapter 11

Debtor(s):

LAX In-Flite Services, LLC

Represented By
Jeremy H Rothstein

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Tuesday, March 2, 2021

Hearing Room 1545

1:00 PM

2:20-19443 Joshuaville, LLC

Chapter 11

#2.00 Hrg re: Motion to Extend Debtor's Deadline to File Chapter 11 Plan

Docket 37

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 3, 3/2/21 at 1:00 p.m.).

Party Information

Debtor(s):

Joshuaville, LLC

Represented By
Leslie A Cohen

Trustee(s):

Moriah Douglas Flahaut (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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1:00 PM

2:20-19443 Joshuaville, LLC

Chapter 11

#3.00 Cont'd Status Conference re: Chapter 11 Case
fr. 11/10/20, 12/22/20, 1/26/21

Docket 1

Tentative Ruling:

Tentative Ruling for 3/2/21:

Continue as set forth below. Appearances are not required on 3/2/21.

(1) Current issues

(a) Debtor's Motion to Extend Deadline to File a Plan (dkt. 37),
Opposition filed by Creditor March 1 and 3 (dkt. 40, 41), Debtor's Reply (dkt.
45).

Grant.

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

(2) Deadlines/dates. This case was filed, as a Subchapter V case, on
10/19/20.

(a) Bar date: 12/28/20 per General Order 20-01 (70 days after petition
date in Subchapter V cases) (DO NOT SERVE any notice: one
has already been sent, see dkt.9).

(b) Procedures order: dkt.4 (timely served, dkt.6).

(c) Plan/Disclosure Statement: See the **revised** "Procedures of Judge
Bason" (available at www.cacb.uscourts.gov) (search for
"Chapter 11: Plan").

(d) Continued status conference: 4/6/21 at 1:00 p.m. No written status
report is required.

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

If appearances are not required at the start of this tentative ruling but you
wish to dispute the tentative ruling, or for further explanation of "appearances
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www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 1/26/21:

Continue as set forth below. Appearances are not required on 1/26/21.

(1) Current issues

This Court has no issues to raise sua sponte at this time.

(2) Deadlines/dates. This case was filed, as a Subchapter V case, on 10/19/20.

(a) Bar date: 12/28/20 per General Order 20-01 (70 days after petition date in Subchapter V cases) (DO NOT SERVE any notice: one has already been sent, see dkt.9).

(b) Procedures order: dkt.4 (timely served, dkt.6).

(c) Plan/Disclosure Statement: See the **revised** "Procedures of Judge Bason" (available at www.cacb.uscourts.gov) (search for "Chapter 11: Plan").

Note: Debtor has filed a written motion (dkt. 37) to extend the deadline to file a plan, which is set by statute in this subchapter V case, from 1/19/21 to 3/22/21. The actual deadline will depend on whether that motion is granted.

(d) Continued status conference: 3/23/21 at 1:00 p.m. No written status report is required.

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

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

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www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 12/22/20:

Continue as set forth below. Appearances are not required on 12/22/20.

(1) Current issues

The issues raised in the tentative ruling for 11/10/20 (reproduced below) have been adequately addressed. This Court is not aware of any remaining issues that would warrant a status conference at this time.

(2) Deadlines/dates. This case was filed, as a Subchapter V case, on 10/19/20.

(a) Bar date: 12/28/20 per General Order 20-01 (70 days after petition date in Subchapter V cases) (DO NOT SERVE any notice: one has already been sent, see dkt.9).

(b) Procedures order: dkt.4 (timely served, dkt.6).

(c) Plan/Disclosure Statement*: File by 1/19/21 using the forms required by Judge Bason or, alternatively, Debtor's own forms (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).

Note: Although Subchapter V contemplates only a Plan, not a Disclosure Statement, the required form Plan has not yet been updated to include the disclosures required by Subchapter V (11 U.S.C. 1190), so if the form Plan is used then Judge Bason requires that the form Disclosure Statement be completed as well. 11 U.S.C. 1181(b).

(d) Continued status conference: 1/26/21 at 1:00 p.m. No written status report is required.

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

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Tentative Ruling for 11/10/20:

Appearances required by counsel for the debtor and by Debtor's principal, Wayne Tsang.

(1) Current issues

This Court has reviewed Debtor's status reports (dkt.12, 13) and the other filed documents and records in this case.

(a) Executory contract(s)?

Debtor reports (dkt.12, p.2) that its "sole asset in an income producing contractual interest" and this bankruptcy case was precipitated by arbitration of a contract dispute and "lack of information/income from main asset." This implies that Debtor is a party to a contract that might be executory (although that is not necessarily so). Debtor also reports (dkt.12, p.7) that it has no executory contracts: is that accurate?

(b) Employment application (dkt.16)

In connection with the pending employment application of proposed bankruptcy counsel (dkt.16), Debtor's principal, Mr. Tsang, declares that Alkterra Capital "paid the pre-petition retainer of \$76,717.00" to proposed bankruptcy counsel "as a gift" for which it will not seek reimbursement, and that "[o]ther than shared leadership/ownership, Alkterra Capital has no connections to, or claims against, the Debtor." Dkt.16, p.11:10-13 There is no disclosure about the business form of Alkterra Capital.

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Supposing that Alkterra Capital is a corporation or similar type of business subject to the laws of California or similar laws, this Court is concerned that investors in Alkterra Capital could in future seek to avoid its gift as a constructively fraudulent transfer, or bring similar claims. That possibility could be used as leverage to influence Mr. Tsang's management of this bankruptcy estate, or otherwise cause potential conflicts of interest.

Have any investors in Alkterra Capital been fully informed as to its gift to Debtor, and have they provided their written consent, and/or whatever else might be required (e.g., a vote)? Does the gift implicate bankruptcy-related concerns in any other ways?

Because it might take time to obtain any responses/authorizations, the tentative ruling is to set the employment application for hearing fairly far in the future, concurrent with the continued status conference (see below). The tentative ruling is not to alter the current deadline for any response to the employment application (14 days after it was filed/served), but to set a supplemental **deadline of 12/8/20** for Debtor to file a declaration or other papers addressing this Court's concerns set forth above, and a **deadline of 12/15/20** for the United States Trustee to file any response it may elect to file on that issue.

(2) Deadlines/dates. This case was filed, as a Subchapter V case, on 10/19/20.

- (a) Bar date: 12/28/20 per General Order 20-01 (70 days after petition date in Subchapter V cases) (DO NOT SERVE any notice: one has already been sent, see dkt.9)
- (b) Procedures order: dkt.4 (timely served, dkt.6).
- (c) Plan/Disclosure Statement*: TBD

Note: Although Subchapter V contemplates only a Plan, not a Disclosure Statement, the required form Plan has not yet been updated to include the disclosures required by Subchapter V (11 U.S.C. 1190), so Judge Bason requires that the form Disclosure Statement be completed as well. 11 U.S.C. 1181(b). Alternatively, as stated in the Procedures Order, Debtor can request to be excused from using the forms.

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

(d) Continued status conference: 12/22/20 at 1:00 p.m. No written

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status report required.

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Tentative Ruling for 1/26/21:

Continue as set forth below. Appearances are not required on 1/26/21.

(1) Current issues

This Court has no issues to raise sua sponte at this time.

(2) Deadlines/dates. This case was filed, as a Subchapter V case, on 10/19/20.

(a) Bar date: 12/28/20 per General Order 20-01 (70 days after petition date in Subchapter V cases) (DO NOT SERVE any notice: one has already been sent, see dkt.9).

(b) Procedures order: dkt.4 (timely served, dkt.6).

(c) Plan/Disclosure Statement: See the **revised** "Procedures of Judge Bason" (available at www.cacb.uscourts.gov) (search for "Chapter 11: Plan").

Note: Debtor has filed a written motion (dkt. 37) to extend the deadline to file a plan, which is set by statute in this subchapter V case, from 1/19/21 to 3/22/21. The actual deadline will depend on whether that motion is granted.

(d) Continued status conference: 3/23/21 at 1:00 p.m. No written status report is required.

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

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Tentative Ruling for 12/22/20:

Continue as set forth below. Appearances are not required on 12/22/20.

(1) Current issues

The issues raised in the tentative ruling for 11/10/20 (reproduced below) have been adequately addressed. This Court is not aware of any remaining issues that would warrant a status conference at this time.

(2) Deadlines/dates. This case was filed, as a Subchapter V case, on 10/19/20.

- (a) Bar date: 12/28/20 per General Order 20-01 (70 days after petition date in Subchapter V cases) (DO NOT SERVE any notice: one has already been sent, see dkt.9).
- (b) Procedures order: dkt.4 (timely served, dkt.6).
- (c) Plan/Disclosure Statement*: File by 1/19/21 using the forms required by Judge Bason or, alternatively, Debtor's own forms (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).

Note: Although Subchapter V contemplates only a Plan, not a Disclosure Statement, the required form Plan has not yet been updated to include the disclosures required by Subchapter V (11 U.S.C. 1190), so if the form Plan is used then Judge Bason requires that the form Disclosure Statement be completed as well. 11 U.S.C. 1181(b).

- (d) Continued status conference: 1/26/21 at 1:00 p.m. No written

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Tentative Ruling for 11/10/20:

Appearances required by counsel for the debtor and by Debtor's principal, Wayne Tsang.

(1) Current issues

This Court has reviewed Debtor's status reports (dkt.12, 13) and the other filed documents and records in this case.

(a) Executory contract(s)?

Debtor reports (dkt.12, p.2) that its "sole asset in an income producing contractual interest" and this bankruptcy case was precipitated by arbitration of a contract dispute and "lack of information/income from main asset." This implies that Debtor is a party to a contract that might be executory (although that is not necessarily so). Debtor also reports (dkt.12, p.7) that it has no executory contracts: is that accurate?

(b) Employment application (dkt.16)

In connection with the pending employment application of proposed bankruptcy counsel (dkt.16), Debtor's principal, Mr. Tsang, declares that Alkterra Capital "paid the pre-petition retainer of \$76,717.00" to proposed bankruptcy counsel "as a gift" for which it will not seek reimbursement, and that "[o]ther than shared leadership/ownership, Alkterra Capital has no

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connections to, or claims against, the Debtor." Dkt.16, p.11:10-13 There is no disclosure about the business form of Alkterra Capital.

Supposing that Alkterra Capital is a corporation or similar type of business subject to the laws of California or similar laws, this Court is concerned that investors in Alkterra Capital could in future seek to avoid its gift as a constructively fraudulent transfer, or bring similar claims. That possibility could be used as leverage to influence Mr. Tsang's management of this bankruptcy estate, or otherwise cause potential conflicts of interest.

Have any investors in Alkterra Capital been fully informed as to its gift to Debtor, and have they provided their written consent, and/or whatever else might be required (e.g., a vote)? Does the gift implicate bankruptcy-related concerns in any other ways?

Because it might take time to obtain any responses/authorizations, the tentative ruling is to set the employment application for hearing fairly far in the future, concurrent with the continued status conference (see below). The tentative ruling is not to alter the current deadline for any response to the employment application (14 days after it was filed/served), but to set a supplemental **deadline of 12/8/20** for Debtor to file a declaration or other papers addressing this Court's concerns set forth above, and a **deadline of 12/15/20** for the United States Trustee to file any response it may elect to file on that issue.

(2) Deadlines/dates. This case was filed, as a Subchapter V case, on 10/19/20.

(a) Bar date: 12/28/20 per General Order 20-01 (70 days after petition date in Subchapter V cases) (DO NOT SERVE any notice: one has already been sent, see dkt.9)

(b) Procedures order: dkt.4 (timely served, dkt.6).

(c) Plan/Disclosure Statement*: TBD

Note: Although Subchapter V contemplates only a Plan, not a Disclosure Statement, the required form Plan has not yet been updated to include the disclosures required by Subchapter V (11 U.S.C. 1190), so Judge Bason requires that the form Disclosure Statement be completed as well. 11 U.S.C. 1181(b). Alternatively, as stated in the Procedures Order, Debtor can request to be excused from using the forms.

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

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(d) Continued status conference: 12/22/20 at 1:00 p.m. No written status report required.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, all appearances are telephonic via CourtCall at (888) 882-6878.

Party Information

Debtor(s):

Joshuaville, LLC

Represented By
Leslie A Cohen

Trustee(s):

Moriah Douglas Flahaut (TR)

Pro Se

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2:20-20909 VEEJ Corp

Chapter 11

#4.00 Cont'd hrg re: Motion for relief from stay [UD]
1/26/21, 2/9/21

MOSS ATKINSON FAMILY TRUST
vs
DEBTOR

Docket 30

***** VACATED *** REASON: Continued to 3/23/21 pursuant to stipulation
(dkt. 61).**

Tentative Ruling:

Party Information

Debtor(s):

VEEJ Corp

Represented By
Jeffrey S Shinbrot

Movant(s):

Moss Atkinson Family Trust

Represented By
Giovanni Orantes

Trustee(s):

Susan K Seflin (TR)

Pro Se

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2:20-20909 VEEJ Corp

Chapter 11

#5.00 Cont'd Status Conference re: Chapter 11 Case
fr. 1/5/21, 1/26/21,

Docket 1

Tentative Ruling:

Tentative Ruling for 3/2/21:

Continue as set forth below. Appearances are not required.

(1) Current issues

This Court has no issues to raise sua sponte at this time.

(2) Deadlines/dates. This case was filed on 12/13/20. Debtor elected to proceed under Subchapter V.

(a) Bar date: 2/22/21 per General Order 20-01 (70 days after petition date in Subchapter V cases) (DO NOT SERVE any notice: one has already been sent, see dkt.23).

(b) Procedures order: dkt. 3 (timely served, dkt. 6).

(c) Plan/Disclosure Statement: file by 3/15/21. See the **revised** "Procedures of Judge Bason" (available at www.cacb.uscourts.gov) (search for "Chapter 11: Plan").

(d) Continued status conference: 3/23/21 at 1:00 p.m., no written status report is required.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer

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permitted.

today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

VEEJ Corp

Represented By
Jeffrey S Shinbrot

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2:17-23714 Fargo Trucking Company, Inc.

Chapter 11

Adv#: 2:19-01464 Fargo Trucking Company Inc Post-Confirmation Commi v. OOCL(USA)

#6.00 Cont'd Status Conference re: Complaint for Contribution on Account of Liability as a Partner for All of the Debts of Fargo Trucking Company Inc.
fr. 01/07/20, 01/28/20, 5/5/20, 9/15/20, 12/22/20

Docket 1

Tentative Ruling:

Tentative Ruling for 3/2/21:

Appearances required.

(A) Current Issues

The parties are directed to address the scheduling and scope of this Bankruptcy Court's pretrial proceedings. That includes (1) procedures for entry of the final pretrial order, (2) whether this Bankruptcy Court should hear motions *in limine*, and (3) whether this Bankruptcy Court should address other pretrial issues such as objections to jury instructions.

(1) Procedures for entry of the final pretrial order

This Bankruptcy Court has reviewed the parties' joint status report (adv. dkt. 29), District Judge Bernal's order partially withdrawing the reference (the "Withdrawal Order," adv. dkt. 15, Ex.1), this Bankruptcy Court's modified scheduling order (adv. dkt. 22), the District Court's minute order setting the trial and related deadlines (the "Bernal Minute Order," adv. dkt. 28, Ex.A), and the other filed papers and records of this Court. This Court has also reviewed Judge Bernal's posted form of Civil Trial Scheduling Order (the "Bernal Scheduling Form") and the District Court's posted form of Final Pretrial Conference Order (the "Local Pretrial Order").

This Court notes that the Withdrawal Order provides:

All pretrial proceedings, through approval and entry of the pretrial order, with the exception of dispositive motions ..., will remain with the Bankruptcy Court. The Bankruptcy Court will rule upon these matters in the first instance, and wherever necessary, issue findings of fact and conclusions of law for the District Court's

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review. [Adv. Dkt. 15, Ex.1, p.3:7-12 (emphasis added).]

This Bankruptcy Court also notes that trial is scheduled for 6/28/21 in the District Court, a final pretrial conference is scheduled for 6/4/21 in the District Court, and normally, pursuant to the Bernal Scheduling Form, the proposed final pretrial conference order would not be submitted until 14 days prior to the pretrial conference. But if this Bankruptcy Court is to enter a pretrial order, or propose a pretrial order for entry by Judge Bernal, then it appears that the parties will need to submit their proposed pretrial orders to this Bankruptcy Court well in advance of the pretrial conference in the District Court. The parties are directed to address whether this is a correct interpretation of Judge Bernal's directions to this Bankruptcy Court, and whether and how to verify the correct procedures with Judge Bernal.

(2) Motions in limine

Although the Bernal Scheduling Form provides for motions *in limine* to be filed at least 28 days prior to the final pretrial conference, and ruled on at that conference before Judge Bernal, those things arguably are within the Withdrawal Order's direction to this Bankruptcy Court to address all pretrial matters through entry of the pretrial order (which, in this Bankruptcy Court's experience, normally would occur after the pretrial conference and therefore after any rulings on motions *in limine*). Therefore this Bankruptcy Court is uncertain whether Judge Bernal intends for this Bankruptcy Court to rule on such motions *in limine*.

It might be that some such motions would deal with bankruptcy-related issues as to which this Bankruptcy Court might be able to assist Judge Bernal with pretrial rulings or proposed findings of fact and conclusions of law. On the other hand, other motions *in limine* might involve issues or procedures that would impinge on Judge Bernal's preferences regarding how to proceed with the trial, and perhaps Judge Bernal does not intend for this Bankruptcy Court to rule on such motions.

(3) Other issues, such as objections to jury instructions

More generally, this Bankruptcy Court is not entirely clear regarding what issues it should or should not address. For example, the Bernal Scheduling Form contemplates that objections to jury instructions will be resolved prior to issuance of the final pretrial order, and therefore arguably the Withdrawal Order directs this Bankruptcy Court to rule on any objections

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to proposed jury instructions, but that might not be what Judge Bernal intends.

(4) Conclusion regarding Current Issues

The tentative ruling is that, after hearing from the parties, this Bankruptcy Court will communicate with the chambers of Judge Bernal regarding any clarifications or confirmation of procedures that Judge Bernal is willing to provide. Thereafter, this Bankruptcy Court contemplates issuing an clarifying order, addressing any follow-up matters at the continued status conference (see below), or otherwise memorializing on the record any resolution of the foregoing issues.

(B) Standard requirements

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (see adv.dkt.15).

(2) Mediation: [Intentionally omitted]

(3) Deadlines

This adversary proceeding has been pending since 11/5/19. The pretrial conference and hearing on motions in limine has been set in the District Court for 6/4/21 at 11:00 a.m. (see adv. dkt. 28, Ex.A, p.2) and trial has been set for 6/28/21 at 8:30 a.m. (see *id.*). In addition, the following additional deadlines apply.

Continued status conference: 5/11/21 at 1:00 p.m.

Deadline to file Joint status report: 4/27/21

Lodge Joint Proposed Pre-Trial Order: TBD **NOTE**: The parties are reminded that they will need to coordinate with the District Court regarding some of the issues that will need to be addressed, such as the format of exhibits preferred by District Court Judge Bernal, whether direct testimony will be live or via deposition excerpts, etc. The parties are directed to plan

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accordingly, and to review the Local Pretrial Order and the Bernal Scheduling Form.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 12/22/20:

Continue as set forth below. Appearances are not required on 12/22/20.

This Court has reviewed the parties' joint status report (adv. dkt. 28), the District Court's order partially withdrawing the reference (adv. dkt. 15, Ex.1), this Bankruptcy Court's modified scheduling order (adv. dkt. 22), the District Court's minute order setting the trial and related deadlines (adv. dkt. 28, Ex.A), and the other filed papers and records of this Court.

(B) Standard requirements

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (see adv.dkt.15).

(2) Mediation: [Intentionally omitted]

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(3) Deadlines

This adversary proceeding has been pending since 11/5/19. The pretrial conference and hearing on motions in limine has been set in the District Court for 6/4/21 at 11:00 a.m. (see adv. dkt. 28, Ex.A, p.2) and trial has been set for 6/28/21 at 8:30 a.m. (see *id.*). In addition, the following additional deadlines apply.

Continued status conference: 3/2/21 at 1:00 p.m.

Lodge Joint Proposed Pre-Trial Order: TBD **NOTE:** The parties are reminded that they will need to coordinate with the District Court regarding some of the issues that will need to be included in the pretrial order, such as the format of exhibits preferred by District Court Judge Bernal, whether direct testimony will be live or via declaration, etc. The parties are directed to plan accordingly.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Fargo Trucking Company, Inc.

Represented By

Vanessa M Haberbush

David R Haberbush

Lane K Bogard

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

Tuesday, March 2, 2021

Hearing Room 1545

1:00 PM

CONT... Fargo Trucking Company, Inc.

Chapter 11

Defendant(s):

OOCL(USA) Inc., DBA Orient

Represented By
Jeffrey D Cawdrey

Plaintiff(s):

Fargo Trucking Company Inc Post-

Represented By
David R Haberbush
Vanessa M Haberbush

Trustee(s):

Timothy J. Yoo

Pro Se

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

Tuesday, March 2, 2021

Hearing Room 1545

1:00 PM

2:20-12865 Migam Murray

Chapter 11

#7.00 Hrg re: U.S. Trustee Motion to Dismiss or Convert Case

Docket 132

Tentative Ruling:

Tentative Ruling for 3/2/21:

Please see the tentative ruling for the Status Conference (Calendar No. 8, 3/2/21 at 1:00 p.m.).

Party Information

Debtor(s):

Migam Murray

Represented By
Andrew Moher

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

Tuesday, March 2, 2021

Hearing Room 1545

1:00 PM

2:20-12865 Migam Murray

Chapter 11

#8.00 Cont'd Status Conference re: Chapter 11 Case
fr. 6/2/20, 7/28/20, 9/1/20, 10/6/20, 12/8/20,
2/9/21

Docket 56

Tentative Ruling:

Tentative Ruling for 3/2/21:

Appearances required.

(1) Current issues

(a) Motion of U.S. Trustee ("UST") to dismiss or convert ("MTD," dkt. 132), Debtor's Opposition (dkt. 142), UST's Reply (dkt. 146), response of Secured Creditors Hillegass *et al.* ("Secured Creditor") in Support of MTD (dkt. 147).

Grant in part by issuing a continuing compliance order. The sole ground for the UST's MTD is failure to file MORs, and Debtor has now (very belatedly) filed the missing MORs. (Note: This relief will be mooted if, as provided in the tentative ruling below, this case is dismissed or converted anyway.)

Proposed order: If this motion is not mooted, the UST is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(b) Other cause for dismissal (or alternate remedies)

Under this Court's order establishing procedures at the commencement of this case (dkt. 56, timely served, dkt. 61), this Court may dismiss or convert this case at any status conference. The tentative ruling is to dismiss or convert this case based on (i) Debtor's late-filing of numerous MORs, (ii) Debtor's failure to make certain adequate protection payments to Secured Creditor, and (iii) Debtor's failure to make numerous other payments to creditors, in the admitted aggregate amount of \$15,253.41, according to her MORs. See MOR for Jan. 2021 (dkt.141), p.4 (at PDF p.3).

The parties are directed to address whether dismissal or conversion is in the best interests of all parties, including Debtor. The tentative ruling is that

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1:00 PM

CONT...

Migan Murray

Chapter 11

any dismissal would not entail a bar under 11 U.S.C. 109(g)(1), because on balance the preponderance of the evidence appears to be that Debtor's trouble prosecuting this case and her prior case are based on financial troubles, rather than willfulness.

Proposed order: If this Court adopts the tentative ruling to dismiss or convert, the UST is directed to lodge a proposed order via LOU within 7 days after the hearing date and attach a copy of this tentative ruling, thereby incorporating it as the final ruling, subject to any modifications at the hearing. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 3/13/20 and converted from chapter 13 on 4/23/20 (dkt. 45).

- (a) Bar date: 6/8/20 (dkt. 58; timely served, dkt. 60).
- (b) Procedures order: dkt. 56 (timely served, dkt. 61)
- (c) Plan/Disclosure Statement: *If* this case is not dismissed or converted, file by 3/26/21 (DO NOT SERVE - except on the U.S. Trustee). See the **revised** "Procedures of Judge Bason" (available at www.cacb.uscourts.gov) (search for "Chapter 11: Plan").
- (d) Continued status conference: *If* this case is not dismissed or converted, 4/6/21 at 1:00 p.m. No written status report required.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

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Central District of California
Los Angeles
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Hearing Room 1545

1:00 PM

CONT... Migam Murray

Chapter 11

Debtor(s):

Migam Murray

Represented By
Andrew Moher

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, March 2, 2021

Hearing Room 1545

1:00 PM

2:20-18370 New Hillcrest Inc., a Cayman Island Corporation

Chapter 11

#9.00 Cont'd hrg re: Motion for Order Authorizing Postpetition Financing on Secured Basis Pursuant to 11 U.S.C. § 364(c)(2) to Provide for the Refinance of 701 North Hillcrest Road, Beverly Hills, California 90210 fr. 1/26/21

Docket 46

Tentative Ruling:

Tentative Ruling for 3/2/21:

Please see the tentative Ruling for the status conference (Calendar No. 10, 3/2/21 at 1:00 p.m.).

Tentative Ruling for 1/26/21:

Please see the tentative ruling for the status conference (Calendar No. 3, 1/26/21 at 1:00 p.m.).

Party Information

Debtor(s):

New Hillcrest Inc., a Cayman Island

Represented By
Brett Ramsaur

Movant(s):

New Hillcrest Inc., a Cayman Island

Represented By
Brett Ramsaur

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

Tuesday, March 2, 2021

Hearing Room 1545

1:00 PM

2:20-18370 New Hillcrest Inc., a Cayman Island Corporation

Chapter 11

#10.00 Cont'd Status Conference re: Chapter 11 Case
fr. 10/6/20, 12/1/20, 1/26/21

Docket 1

Tentative Ruling:

Tentative Ruling for 3/2/21:

Appearances required.

(1) Current issues

(a) Finance motion (dkt. 46), Opposition of Amit Tidhar (dkt. 54, 55), no reply is on file

Based on the arguments and representations of the parties at the hearing on 1/26/21, this Court was persuaded to continue this matter to allow time for Debtor to pursue a potential sale of the property in lieu of the proposed refinance. Debtor probably has only a very limited time in which to provide notice and a hearing on any sale motion, obtain approval of any proposed sale, and close any such sale, because this Court has granted relief from the automatic stay to creditor Amit Tidhar (dkt. 60), with the only limitation being that no foreclosure sale can take place prior to 4/30/21.

There is no tentative ruling, but Debtor should be prepared to provide an update on the status of any sale efforts, and address whether the proposed refinance motion should be withdrawn.

(b) Monthly operating reports ("MORs") & Missing status report

This Court's tentative rulings for 12/1/20 and 1/26/21 cautioned Debtor that failure to file MORs might be cause for dismissal, conversion of this case to chapter 7, or other relief. In addition, at the hearing on 1/26/21, this Court orally directed Debtor to file a status report by 2/16/21. Notwithstanding the foregoing, as of the preparation of this tentative ruling Debtor has not filed its January MOR or a status report.

The tentative ruling is to issue a continuing compliance order, with a **deadline of 3/16/21** for Debtor to file all MORs through February of 2021, and with a caution to Debtor that this Court might convert or dismiss this case with a 180-day bar to being a Debtor in bankruptcy if Debtor fails to remain in

**United States Bankruptcy Court
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CONT... New Hillcrest Inc., a Cayman Island Corporation
full compliance.

Chapter 11

- (2) Deadlines/dates. This case was filed on 9/15/20.
- (a) Bar date: 12/7/20 (dkt.23; timely served, dkt.25)
 - (b) Procedures order: dkt.4 (timely served, dkt.6, supplemented by dkt.21)
 - (c) Plan/Disclosure Statement*: file by 5/13/21 (dkt 64). See the **revised** "Procedures of Judge Bason" (available at www.cacb.uscourts.gov) (search for "Chapter 11: Plan").
 - (d) Continued status conference: 4/6/21 at 1:00 p.m. No written status report required.
- *Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

New Hillcrest Inc., a Cayman Island

Represented By
Brett Ramsaur

**United States Bankruptcy Court
Central District of California
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1:00 PM

2:21-10368 Mrudula Kothari

Chapter 11

#11.00 Cont'd status conference re: Chapter 11 Case
fr. 2/9/21

Docket 1

Tentative Ruling:

Tentative Ruling for 3/2/21:

Continue as set forth below, with a caveat that Debtor's counsel may need to redraft, refile, and reserve the budget motion for the reasons set forth below. Appearances are not required on 3/2/21.

(1) Current issues

(a) Budget motion (dkt. 27)

Debtor's budget motion lists net income from rental property or a business of \$2,800.00, but ignores the instruction to "[a]ttach a statement for each property and business showing gross receipts, ordinary and necessary business expenses, and the total monthly net income." Dkt.27, at PDF p.11. The tentative ruling is that this Court will take no action at this time, because the motion is not on calendar, but that Debtor's counsel should amend the motion to add the missing information. That is critical because otherwise creditors (and this Court) have no way of knowing if, for example, the gross receipts are \$22,800/mo. but Debtor pays her friend a \$20,000/mo. consulting fee so that the net income is only \$2,800/mo. (to provide an intentionally extreme hypothetical for illustrative purposes only).

(2) Dates/procedures. This case was filed on 1/19/21 .

(a) Bar date: 3/30/21 per General Order 20-01 (70 days after petition date in Subchapter V cases) (DO NOT SERVE any notice: one has already been sent, see dkt. 11).

(b) Procedures order: dkt. 8 (timely served, dkt. 12)

(c) Plan/Disclosure Statement: file by 4/16/21 (DO NOT SERVE - except on the U.S. Trustee). See the **revised** "Procedures of Judge Bason" (available at www.cacb.uscourts.gov) (search for "Chapter 11: Plan").

(d) Continued status conference: 4/27/21 at 1:00 p.m. No written

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1:00 PM

CONT...

Mrudula Kothari

Chapter 11

status report is required.

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

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Mrudula Kothari

Represented By
Stella A Havkin

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

1:00 PM

2:20-12531 Custom Fabrications International, LLC

Chapter 11

#12.00 Status Conference re: Post confirmation
fr. 3/17/20, 03/31/20, 5/12/20, 6/16/20, 7/14/20,
9/1/20, 10/27/20, 11/10/20, 12/8/20

Docket 1

Tentative Ruling:

Tentative Ruling for 3/2/21:

Continue to 6/1/21 at 1:00 p.m., *brief* status report due 5/18/21, all subject to being mooted if a final decree/order closing the case is issued before that time. Appearances are not required on 3/2/21.

(1) Current issues

(a) Discharge of Subchapter V Trustee

The Trustee's report of no distribution (dkt. 102) requests that he be discharged from any further duties as trustee. The tentative ruling is to grant that request.

(2) Deadlines/dates

This case was filed on 3/6/20, and Debtors' plan was confirmed on 12/10/20 (dkt. 92).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

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1:00 PM

CONT... Custom Fabrications International, LLC

Chapter 11

Party Information

Debtor(s):

Custom Fabrications International,

Represented By
Kevin Tang

Trustee(s):

Andrew W. Levin (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Tuesday, March 2, 2021

Hearing Room 1545

1:00 PM

2:20-12166 Olinda Esperanza Lytle

Chapter 11

#13.00 Cont'd Status Conference re: Post confirmation
fr. 03/31/20, 4/21/20, 6/2/20, 6/16/20, 6/30/20,
7/28/20, 9/29/20, 11/10/20, 1/12/21

Docket 1

Tentative Ruling:

Tentative Ruling for 3/2/21:

Continue as set forth below. Appearances are not required on 3/2/21.

1) Current issues

This Court has reviewed Debtor's post confirmation status report (dkt. 137) and has no issues to raise *sua sponte*.

(2) Deadlines/dates

This case was filed on 2/26/20, and Debtor's plan was confirmed on 9/29/20 (dkt. 113). The tentative ruling is to set a further continued Status Conference for 3/23/21 at 1:00 p.m., concurrent with other matters. No written status report is required.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

**United States Bankruptcy Court
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1:00 PM

CONT... Olinda Esperanza Lytle

Chapter 11

Debtor(s):

Olinda Esperanza Lytle

Represented By
Onyinye N Anyama

**United States Bankruptcy Court
Central District of California
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Tuesday, March 2, 2021

Hearing Room 1545

1:00 PM

2:19-23303 Candelario Lora

Chapter 11

#14.00 Status conference re: Post confirmation
fr. 12/17/19, 1/14/20, 02/18/20, 03/31/20, 4/21/20,
5/5/20, 6/30/20, 7/28/20, 9/1/20, 9/15/20, 9/29/20,
11/12/20, 1/5/21

Docket 1

Tentative Ruling:

Tentative Ruling for 3/2/21:

Continue to 6/1/21 at 1:00 p.m., *brief* status report due 5/18/21, all subject to being mooted if an order closing the case on an interim basis is issued before that time. Appearances are not required on 3/2/21.

(1) Current issues

This Court has no issues to raise *sua sponte*.

(2) Deadlines/dates

This case was filed on 11/11/19, and Debtors' plan was confirmed on 11/20/20 (dkt. 218).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

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CONT... Candelario Lora

Chapter 11

Debtor(s):

Candelario Lora

Represented By
Onyinye N Anyama

**United States Bankruptcy Court
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Tuesday, March 2, 2021

Hearing Room 1545

1:00 PM

2:19-16482 Unified Protective Services, Inc.

Chapter 11

#15.00 Status Conference re: Post Confirmation
fr. 7/2/19, 08/06/19, 8/20/19, 10/29/19, 12/10/19,
12/17/19, 1/14/20, 2/4/20, 3/3/20, 6/2/20, 8/18/20,
9/29/20, 10/27/20

Docket 1

Tentative Ruling:

Tentative Ruling for 3/2/21:

Continue as set forth below. Appearances are not required on 3/2/21.

1) Current issues

This Court has reviewed Debtor's post confirmation status report (dkt. 231) and has no issues to raise *sua sponte*. This Court notes, however, that Debtor's status report and a pending motion (dkt.232) refer to closing this case on an "interim" basis; but that mechanism usually is used in individual cases when the discharge is often delayed by five years (per 11 U.S.C. 1141(d)(5)), but this Court's recollection and review of the Plan (dkt.188), confirmation order (dkt.216), and discharge order (dkt. 218) do not reflect any departure from the usual rule that a non-liquidating corporate debtor is discharged upon confirmation. See 11 U.S.C. 1141(d)(1), (3) & (6). Accordingly, this Court questions whether it would be appropriate to close this case only on an interim basis, and also questions what mechanism would be used to assure that this case does not stay in limbo forever.

(2) Deadlines/dates

This case was filed on 6/19/20, and Debtor's plan was confirmed on 10/28/20 (dkt. 216). The tentative ruling is to set a further continued Status Conference for 6/1/21 at 1:00 p.m. with a brief status report due 5/18/21, all subject to being vacated if the case is closed prior to those dates.

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

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CONT... Unified Protective Services, Inc.

Chapter 11

www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Unified Protective Services, Inc.

Represented By
Michael Jay Berger

**United States Bankruptcy Court
Central District of California
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Tuesday, March 2, 2021

Hearing Room 1545

1:00 PM

2:19-18900 FAME Assistance Corporation, a Non Profit Corp.

Chapter 11

#16.00 Cont'd hrg re: Motion to Dismiss Or Convert Chapter 11 Case
fr. 12/8/20, 12/17/20, 01/26/21

Docket 160

Tentative Ruling:

Tentative Ruling for 3/2/21:

Please see the tentative ruling for the status conference (Calendar No. 17,
3/2/21 at 1:00 p.m.).

Tentative Ruling for 12/8/20:

Please see the tentative ruling for the status conference (Calendar No. 2,
12/8/20 at 1:00 p.m.).

Party Information

Debtor(s):

FAME Assistance Corporation, a

Represented By
Peter T Steinberg

Movant(s):

Apex Realty, Inc.

Represented By
James R Selth
Crystle Jane Lindsey
David L. Neale
David L. Neale, Esq
Jeffrey S Kwong

BRG Adams, LLC

Represented By
David L. Neale
Jeffrey S Kwong

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1:00 PM

2:19-18900 FAME Assistance Corporation, a Non Profit Corp.

Chapter 11

#17.00 Cont'd Status Conference re: Chapter 11 Case
fr. 8/20/19, 9/24/19,10/29/19, 11/5/19, 12/17/19,
1/28/20, 03/31/20, 5/5/20, 6/16/20, 7/14/20, 9/15/20,
11/10/20, 12/1/20, 12/8/20, 12/17/20, 1/26/21

Docket 1

Tentative Ruling:

Tentative Ruling for 3/2/21:

Continue as set forth below. Appearances are not required on 3/2/21.

(1) Current issues

(a) Motion of Apex Realty, Inc. & BRG Adams, LLC ("Apex/BRG") to dismiss, convert or appoint chapter 11 trustee (dkt. 160, "MTD") and request for judicial notice (dkt. 161), Debtor's opposition (dkt. 170) and request for judicial notice (dkt. 171), Apex/BRG's reply (dkt. 172), evidentiary objections (dkt. 173), and errata (dkt. 174)

In view of Debtor's status report (dkt. 197), the tentative ruling is to continue this matter to **5/11/21 at 1:00 p.m.** for the parties to finalize their settlement and file a motion approving that settlement.

(2) Deadlines/dates. This case was filed on 7/31/19.

(a) Bar date: 10/25/19 (dkt. 24; timely served, dkt. 26). *Exception*: the bar date for creditors Apex/BRG has been extended (see dkt. 78, 138, 156)

(b) Procedures order: dkt. 2 (timely served, dkt.23).

(c) Plan/Disclosure Statement*: TBD. See the **revised** "Procedures of Judge Bason" (available at www.cacb.uscourts.gov) (search for "Chapter 11: Plan").

(d) Continued status conference: 3/9/21 at 1:00 p.m., concurrent with other matters. No written status report required.

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

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

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1:00 PM

CONT... FAME Assistance Corporation, a Non Profit Corp. Chapter 11

wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

FAME Assistance Corporation, a

Represented By
Peter T Steinberg

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

Tuesday, March 2, 2021

Hearing Room 1545

1:00 PM

2:19-24048 110 West Properties, LLC

Chapter 11

Adv#: 2:20-01012 Tarzana Crossing, a Merchant Faire, LLC v. 110 West Properties, LLC et al

#18.00 Cont'd hrg re: Motion of Creditors/Defendants Dos Cabezas Properties, LLC, Criscione-Meyer Entitlement, a Limited Liability Company Cell of Almond Tree Capital Management Co., LLC, Michael Criscione to Remand Tarzana Crossing, A Merchant Faire, LLC's Complaint and Request for Attorney's Fees in the Amount of \$2,800.00
fr. 03/31/20, 5/12/20, 6/30/20, 8/18/20, 10/27/20, 12/8/20, 1/26/21, 2/9/21

Docket 7

Tentative Ruling:

Tentative Ruling for 3/2/21:

Please see the tentative ruling for the adversary status conference (Calendar No. 19, 3/2/21 at 1:00 p.m.).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

110 West Properties, LLC

Represented By
Gregory K Jones
Jeffrey Huron
Danielle N Rushing

Defendant(s):

110 West Properties, LLC

Represented By
Gregory K Jones

RU, LLC

Pro Se

Dos Cabezas Properties, LLC

Represented By
Thomas F Nowland
Robert P Goe
Charity J Manee

Criscione-Meyer Entitlement, LLC

Represented By

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CONT... 110 West Properties, LLC

Chapter 11

	Thomas F Nowland
Michael Criscione	Represented By Thomas F Nowland
First American Title Company	Pro Se

Movant(s):

Dos Cabezas Properties, LLC	Represented By Thomas F Nowland Robert P Goe Charity J Manee
Criscione-Meyer Entitlement, LLC	Represented By Thomas F Nowland
Michael Criscione	Represented By Thomas F Nowland

Plaintiff(s):

Tarzana Crossing, a Merchant Faire,	Represented By Alan M Feld James R Felton
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**United States Bankruptcy Court
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2:19-24048 110 West Properties, LLC

Chapter 11

Adv#: 2:20-01012 Tarzana Crossing, a Merchant Faire, LLC v. 110 West Properties, LLC et al

#19.00 Cont'd Status Conference re: Notice of Removal
fr. 03/31/20, 5/12/20, 6/30/20, 8/18/20, 10/27/20
12/8/20, 1/26/21, 2/9/21

Docket 1

Tentative Ruling:

Tentative Ruling for 3/2/21:

Please see the tentative ruling for the main case status conference (Calendar No. 23, 3/2/21 at 1:00 p.m.).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 12/8/20:

Appearances required.

(1) Current issues

(a) Motion for remand (adv. dkt. 7, "Remand Motion") and supporting declaration (adv. dkt. 8), Plaintiff's opposition (adv. dkt. 10), Movants' reply (adv. dkt. 12)

This matter has been continued several times to allow time for the parties to participate in settlement negotiations. The tentative ruling is to continue this matter again, concurrent with the status conference in the main

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CONT... **110 West Properties, LLC**

Chapter 11

case, in view of Debtor's report (main case, dkt.180, p.5:17-20) that Debtor and Tarzana Crossing have tentatively reached a settlement for which Debtor intends to seek approval.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 10/27/20:

[Intentionally omitted]

Tentative Ruling for 8/18/20:

Appearances required.

Pursuant to Judge Bason's COVID19 Procedures, **ONLY TELEPHONIC APPEARANCES WILL BE PERMITTED until further notice.** Please contact CourtCall at (888) 882-6878 to make arrangements for any telephonic appearance. There is no need to contact the Court for permission. Parties who are not represented by an attorney will be able to use CourtCall for free through 9/30/20. Attorneys will receive a 25% discount (for more information, see www.cacb.uscourts.gov, "Judges," "Bason, N.," "Telephonic Instructions").

(1) Current issues

(a) Motion for remand (adv. dkt. 7, "Remand Motion") and supporting declaration (adv. dkt. 8), Plaintiff's opposition (adv. dkt. 10), Movants' reply (adv. dkt. 12)

This matter was continued to allow time for the parties to participate in

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CONT... 110 West Properties, LLC

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a second round of mediation, which was been scheduled to take place on 7/17/20 (Main Case, dkt. 129, p.2:7-8). On 8/4/20, Debtor filed a status report (Main Case, dkt. 136, p.4:22-26) stating that "the parties were unable to resolve their disputes [at the mediation, but] are continuing to make efforts to resolve their disputes through Mr. Gould."

There is no tentative ruling, but the parties should be prepared (a) to provide this Court with any updates on the status of those negotiations (if any) and (b) to address whether this matter should be further continued or this Court should rule on the merits of the Remand Motion.

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

Tentative Ruling for 6/30/20:

[Intentionally omitted]

Tentative Ruling for 5/12/20:

[Intentionally omitted]

Tentative Ruling for 3/31/20:

Appearances required, to address whether, prior to remand, this Court should order mandatory mediation. But, pursuant to Judge Bason's COVID19 Procedures, **telephonic appearances are REQUIRED until further notice.**

Please contact CourtCall at (888) 882-6878 to make arrangements for any telephonic appearance. There is no need to contact the Court for permission. Parties who are not represented by an attorney will be able to use CourtCall for free through 4/30/20. Attorneys will receive a 25% discount (for more information, see www.cacb.uscourts.gov, "Judges," "Bason, N.," "Telephonic Instructions").

This Court has reviewed the parties' joint status report (dkt. 11) and the other

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filed documents and records in this adversary proceeding.

(1) Current issues

(a) Motion for remand (adv. dkt. 7, "Remand Motion") and supporting declaration (adv. dkt. 8), Plaintiff's opposition (adv. dkt. 10), Movants' reply (adv. dkt. 12)

Defendants Dos Cabezas Properties, LLC, Criscione-Meyer Entitlement, LLC, and Michael Criscione (collectively, the "Movants") seek an order remanding this proceeding and for an award of attorneys fees and costs imposed against plaintiff Tarzana Crossing, a Merchant Faire, LLC ("Plaintiff").

For the reasons set forth below, the tentative ruling is to grant the request to remand this removed action, but perhaps defer the remand until after mediation, and deny the request for attorney fees.

(i) Jurisdiction

The parties dispute whether this Court has subject matter jurisdiction to hear this proceeding. The tentative ruling is that this Court has "related to" jurisdiction pursuant to 28 U.S.C. 157(c)(1), because the parties' dispute arises from an alleged breach of contract for the sale of the estate's principal asset.

(ii) Mandatory abstention

The tentative ruling is that mandatory abstention applies as follows. Mandatory abstention under 28 U.S.C. 1334(c)(2) requires seven elements: (1) a timely motion; (2) a purely state law question; (3) a non-core proceeding under 28 U.S.C. 157(c)(1); (4) a lack of independent federal jurisdiction absent the petition under Title 11; (5) that an action is commenced in a state court; (6) the state court action may be timely adjudicated; (7) a state forum of appropriate jurisdiction exists. [*In re Gen. Carriers Corp.*, 258 B.R. 181, 189 (9th Cir. BAP 2001) (internal quotation omitted).]

These elements are satisfied: (1) the motion was timely - the proceeding was removed on 1/22/20 and Movants filed the remand motion just 30 days later, on 2/21/20; (2) the complaint involves purely nonbankruptcy law questions (breach of fiduciary duty etc., adv. dkt. 7, p. 2:17-21) (Movants state that they amended their complaint on 8/30/19, but there is nothing in the record reflecting what was amended (*id.*, p. 2:21), so this Court bases its ruling on the record presented); (3) the proceeding is

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noncore - the authorities cited by the removing party (dkt.10, pp.14:24-15:14) are distinguishable because they all involved alleged violations of fiduciary duties within the bankruptcy case itself, not prepetition and nonbankruptcy alleged violations; (4) no independent federal jurisdiction has been asserted; (5) the action was commenced prepetition, on 12/14/18, in Los Angeles Superior Court; (6) there is no evidence that the proceeding cannot be timely adjudicated in the State Court; and (7) neither party has contested in this Court the State Court's jurisdiction over the proceeding.

(iii) Discretionary abstention

Alternatively, and in addition, the tentative ruling is that discretionary abstention is appropriate.

Discretionary abstention under 28 U.S.C. 1334(c)(1) requires consideration of the following twelve factors:

- (1) the effect of lack thereof on the efficient administration of the estate if a Court recommends abstention, (2) the extent to which state law issues predominate over bankruptcy issues, (3) the difficulty or unsettled nature of the applicable law, (4) the presence of a related proceeding commenced in state court or other nonbankruptcy court, (5) the jurisdictional basis, if any, other than 28 U.S.C. 1334, (6) the degree of relatedness or remoteness of the proceeding to the main bankruptcy case, (7) the substance rather than form of an asserted "core" proceeding, (8) the feasibility of severing state law claims from core bankruptcy matters to allow judgments to be entered in state court with enforcement left to the bankruptcy court, (9) the burden of the bankruptcy court's docket, (10) the likelihood that the commencement of the proceeding in bankruptcy court involves forum shopping by one of the parties, (11) the existence of a right to a jury trial, and (12) the presence in the proceeding of nondebtor parties.

In re Tucson Estates, Inc., 912 F.2d 1162, 1167 (9th Cir. 1990).

Several of the *Tucson* factors weigh in favor of abstention. First, the Complaint involves purely state-law issues. Second, this Court would not have jurisdiction over the Complaint but for the Debtor's bankruptcy petition, because the claims arise under state law and there is no diversity between the parties. Third, the Complaint involves several non-debtor parties who have asserted a right to a jury trial. Fourth, permitting the Complaint to proceed in state court will contribute to the efficient administration of the bankruptcy case because the State Court is the best tribunal to adjudicate the

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parties' state law claims. Fifth, although the Complaint is related to the main bankruptcy case because it involves claims relating to the primary asset of the estate, deferring to the State Court to adjudicate the parties' claims will not unduly interfere with this Bankruptcy Court's determination of other matters in the bankruptcy case.

(iv) Movants' request for attorneys' fees is denied

The tentative ruling is to deny Movant's request for attorneys' fees because this Court is not persuaded that Plaintiff lacked an objectively reasonable basis for seeking removal of this action because the dispute is related to the primary asset of Debtor's bankruptcy estate.

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

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(2) Venue/jurisdiction/authority.

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

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liquidate debt and enter final judgment). *See generally In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(3) Mediation. [Intentionally omitted]

(4) Deadlines: [Intentionally omitted]

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

Party Information

Debtor(s):

110 West Properties, LLC

Represented By
Gregory K Jones
Jeffrey Huron
Danielle N Rushing

Defendant(s):

110 West Properties, LLC

Represented By
Gregory K Jones

RU, LLC

Pro Se

Dos Cabezas Properties, LLC

Represented By
Thomas F Nowland
Robert P Goe
Charity J Manee

Criscione-Meyer Entitlement, LLC

Represented By
Thomas F Nowland

Michael Criscione

Represented By
Thomas F Nowland

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CONT... 110 West Properties, LLC
First American Title Company

Pro Se

Chapter 11

Plaintiff(s):

Tarzana Crossing, a Merchant Faire,

Represented By
Alan M Feld
James R Felton

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2:19-24048 110 West Properties, LLC

Chapter 11

#20.00 Cont'd hrg re: Motion for Entry of an Order Authorizing the Debtor to Retain and Compensate Professionals Utilized by the Debtor in Ordinary Course of Business
fr. 1/26/21, 2/9/21

Docket 186

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 23, 3/2/21 at 1:00 p.m.).

Party Information

Debtor(s):

110 West Properties, LLC

Represented By
Gregory K Jones
Jeffrey Huron
Danielle N Rushing

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2:19-24048 110 West Properties, LLC

Chapter 11

#21.00 Cont'd hrg re: Application to Employ and
Compensate BBG, Inc. as Appraiser
fr. 1/26/21, 2/9/21

Docket 187

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 23,
3/2/21 at 1:00 p.m.).

Party Information

Debtor(s):

110 West Properties, LLC

Represented By
Gregory K Jones
Jeffrey Huron
Danielle N Rushing

Movant(s):

110 West Properties, LLC

Represented By
Gregory K Jones
Jeffrey Huron
Danielle N Rushing

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Chapter 11

#22.00 Cont'd hrg re: Motion to Dismiss Chapter 11 Case
fr. 10/27/20, 12/8/20, 1/26/21, 2/9/21

Docket 145

Tentative Ruling:

Tentative Ruling for 3/2/21:

Please see the tentative ruling for the status conference (Calendar No. 23,
3/2/21 at 1:00 p.m.).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

110 West Properties, LLC

Represented By
Gregory K Jones
Jeffrey Huron
Danielle N Rushing

Movant(s):

Dos Cabezas Properties, LLC

Represented By
Robert P Goe

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Chapter 11

#23.00 Cont'd Status Conference re: Chapter 11 Case
fr. 12/17/19, 1/28/20, 02/18/20, 3/31/20, 4/21/20,
5/12/20, 6/2/20, 6/30/20, 8/18/20, 9/15/20, 10/27/20,
12/8/20, 1/26/21, 2/9/21

Docket 5

Tentative Ruling:

Tentative Ruling for 3/2/21:

Continue as set forth below. Appearances are not required on 3/2/21.

(1) Current issues

(a) Tarzana Crossing v. 110 West Properties, LLC et al. (2:20-ap-01012-NB)

A joint stipulation for a continuance, filed in this adversary proceeding appears to relate not just to that adversary proceeding but also to the entire case, and it has been executed by the key litigating parties in this case. See Stip. (adv. dkt. 36). A proposed order approving that stipulation has been lodged, but it is ambiguous about whether to continue only the matters in the adversary proceeding or all matters in both the adversary proceeding and in the bankruptcy case. At the very least, the parties' intent appears to be to continue this matter as set forth below.

Accordingly, the tentative ruling is to continue the status conference in this adversary proceeding to the same date at the continued status conference in the bankruptcy case (see below).

(b) Motion of Doz Cabezas Properties, LLC ("Dos Cabezas") to dismiss case (dkt. 145, 166, the "MTD"), Debtor's opposition (dkt. 168), Dos Cabezas's reply (173), Dos Cabezas's supplemental papers (dkt. 179, 182), Debtor's supplemental papers (dkt. 181, 183), Debtor's status report (dkt. 188), Doz Cabezas's supplemental papers (dkt. 193), Debtor's supplemental response (dkt. 197)

This matter was continued to allow the parties to engage in settlement discussions (dkt. 203, 204). As set forth above, there is some ambiguity whether the parties intended to stipulate to continuing this matter, but that

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Chapter 11

appears to be the parties' intent, and this Court is not aware of any reason to do otherwise.

Accordingly, the tentative ruling is to continue this matter to the same date as the continued status conference in this bankruptcy case, set forth below.

(c) Debtor's applications to retain and compensate ordinary course professionals (dkt. 186, "Ordinary Course Application"), and employ BBG, Inc., as its appraiser (dkt. 187, "Appraisal Application") (together, the "Applications"), Omnibus opposition of Dos Cabezas (dkt. 194), Debtor's reply (dkt. 198)

As set forth above, there is some ambiguity whether the parties intended to stipulate to continuing this matter, but that appears to be the parties' intent, and this Court is not aware of any reason to do otherwise. Accordingly, the tentative ruling is to continue this matter to the same date as the continued status conference in this bankruptcy case, set forth below.

(2) Deadlines/dates. This case was filed on 11/29/19.

(a) Bar date: 3/31/20 (dkt.46, timely served, dkt.49).

(b) Procedures order: dkt. 2 (timely served, dkt. 8, 9)

(c) Plan/Disclosure Statement*: N/a

(d) Continued status conference: 4/6/21 at 1:00 p.m., *Brief* status report due 3/23/21.

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

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer

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CONT... 110 West Properties, LLC
permitted.

Chapter 11

Tentative Ruling for 12/8/20:
Appearances required.

(1) Current issues

(a) Motion of Doz Cabezas Properties, LLC ("Dos Cabezas") to dismiss case (dkt. 145, 166), Debtor's opposition (dkt. 168), Dos Cabezas's reply (173), Dos Cabezas's supplemental papers (dkt. 179, 182), Debtor's supplemental papers (dkt. 181, 183)

The tentative ruling is not to strike the latest, unauthorized briefs. In any event, with or without considering them, the tentative ruling is to deny the motion to dismiss this case, without prejudice, for the reasons stated in this Court's tentative ruling for 10/27/20 (copied below), with the following caveats.

First, Debtor is directed to address why the flyer distributed by Collier included the banner "Bankruptcy Court Approved" (dkt.180, Ex.1, and dkt.183, Ex.1). This Court has not approved any sale (although this Court has approved the employment of Colliers to market of the subject property). In fact, there are open questions about whether Debtor even has the ability to sell the subject property without Dos Cabezas' consent.

Second, Debtor is directed to address how it proposes to disclose to prospective purchasers of the properties the fact that Debtor is seeking to sell the subject property before the State Court has determined the underlying disputes with Dos Cabezas. True, as noted in the tentative ruling for 10/27/20, it is possible that Debtor can distinguish *In re Popp*, 323 B.R. 260, 268 (9th Cir. BAP 2005), and *In re Owens-Johnson*, 118 B.R. 780 (Bankr. S.D. Cal. 1990). But the tentative ruling is that Debtor has to disclose to prospective purchasers that (as this Court understands the issues) Dos Cabezas is asserting that (i) Debtor does not own the subject property, and therefore cannot sell it, and alternatively (ii) a sale under 11 U.S.C. 363(b) and (f) should not, or cannot, be used to defeat a claim for specific performance.

In other words, Debtor is directed to address (in consultation with Colliers) how it will disclose to prospective purchasers the potential obstacles to selling the property, without either misleading purchasers or unduly chilling any potential bidding. Of course, this Court recognizes that in chapter 11 there is a certain degree of deference to the business judgment of Debtor, in

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Chapter 11

consultation with Colliers, regarding how best to market the subject property and when and how to provide disclosures. This Court also recognizes that Dos Cabezas might decide that it is in its own interest to consent to the sale (while preserving whatever interests or claims it might have regarding the proceeds of sale), so as to (i) maximize the value of the bankruptcy estate's assets, (ii) stop the running of interest - especially any default interest - owed to the senior lienholder, and thereby (iii) maximize the funds from which its claim and/or equity interests could receive distributions.

But Debtor's flyer ("Bankruptcy Court Approved," dkt.183, Ex.1, at PDF p.9), combined with Debtor's apparently cavalier attitude toward employment and compensation of professionals (see below), raise concerns about whether Debtor and Colliers are not exercising their business judgment appropriately. Debtor is cautioned that failure to exercise proper business judgment, and act as a trustee for the benefit of creditors, might lead to adverse consequences.

(b) Apparently unauthorized retention and payment of professionals

Debtor is directed to address the apparently unauthorized employment and payment of persons who appear to be professionals: Hammonds & Frey (accounting/tax services), Hunter & Co. (management), and BBG, Inc. (appraisal). See dkt.179, p.4:3-23. Debtor alleges (dkt.181, pp.4:23-5:27) that none of these services are "central to the administration of the estate," and instead are "ordinary course" payments that purportedly do not require Court authorization. But, first, there is no evidence to support those allegations and, second, Debtor's explanation raises its own concerns - for example, it is potentially troubling if Debtor is relying on someone to do accounting and tax services who is not addressing the bankruptcy-specific aspects of accounting and tax issues (*i.e.*, if they do not qualify as professionals, that in itself might be problematic).

The tentative ruling is to set a **deadline of 1/5/21** for Debtor and/or those persons to file and serve on all parties in interest either (i) applications for employment, including any authority for retroactive authorization, or (ii) briefs and evidence as to why such persons are not professionals and/or why the payments to them are "ordinary course" and/or whatever other arguments they assert as to why notice, a hearing, and this Court's prior authorization for employment and payment allegedly were not required. The tentative ruling is to set **deadlines of 1/12/21 for any responses, and 1/19/21 for any replies.**

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- (2) Deadlines/dates. This case was filed on 11/29/19.
- (a) Bar date: 3/31/20 (dkt.46, timely served, dkt.49).
 - (b) Procedures order: dkt. 2 (timely served, dkt. 8, 9)
 - (c) Plan/Disclosure Statement*: N/a
 - (d) Continued status conference: 1/26/21 at 1:00 p.m. *Brief* status report due 12/29/20.
- *Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 10/27/20:
Appearances required.

- (1) Current issues
- (a) Doz Cabezas Properties, LLC's ("Dos Cabezas") motion to dismiss case (dkt. 145, 166), Debtor's opposition (dkt. 168), Dos Cabezas's reply (173)

The tentative ruling is to deny the motion without prejudice on the grounds that this Court is not persuaded that, on the present record, sufficient "cause" exists under 11 U.S.C. 1112(b)(4) to convert or dismiss this case.

First, litigation takes time and Dos Cabezas has not presented sufficient evidence to persuade this Court that Debtor is not diligently prosecuting this bankruptcy case and the State Court action. To the contrary, Debtor's prosecution of this case appears to be reasonable in light of the

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uncertainty and challenges presented by COVID-19, the resulting backlog in state courts, and the great deal of latitude afforded to debtors exercising their business judgment about matters of case administration.

Second, Dos Cabezas' reliance on *In re Popp*, 323 B.R. 260, 268 (9th Cir. BAP 2005), and *In re Owens-Johnson*, 118 B.R. 780 (Bankr. S.D. Cal. 1990), is not dispositive. True, it is likely that Debtor's anticipated motion to sell the subject property will be subject to objections based on arguments that (i) Debtor cannot sell what it does not own and (ii) a sale under 11 U.S.C. 363(b) and (f) should not, or cannot, be used to defeat a claim for specific performance. But (x) this Court cannot presume, in advance, that those anticipated objections will prevail, (y) even if a sale were blocked, Debtor has other options (e.g., proposing a plan of reorganization, or waiting until a determination in the State Court litigation that Debtor has an ownership interest in the subject property, and therefore can sell it), and (z) even if all of those things were to turn out in future not to be viable options, it is premature to dismiss this case based on that future possibility.

(b) Dos Cabezas Properties, LLC, Criscione-Meyer Entitlement, Michael Criscione and Michael Meyer's ("Movants") omnibus objection to proofs of claim (dkt. 121, "Claim Objections") 4-1/4-2, 6-1, 7-1, 8-1, 9-1, 10-1, 11-1, 12-1, 13-1, 14-1, 15-1, 16-1, 17-1, 18-1, 19-1, 20-1, 22-1, 23-1/23-2, 24-1, 25-1, 26-1, 27-1, 29-1, 31-1, 32-1, 33-1, 34-1, 35-1, 36-1 and 37-1 ("the Claims"), stipulation & order continuing hearing (dkt. 129, 131), Tarzana Crossing, a Merchant Faire, LLC's ("Tarzana Crossing") opposition (dkt. 137), no reply is on file

Appearances required. At the hearing on 8/18/20 this Court was persuaded to continue this matter, rather than adopt the tentative ruling (reproduced below). The parties should be prepared to address the issues set forth in that tentative ruling and their filed papers.

(2) Deadlines/dates. This case was filed on 11/29/19.

(a) Bar date: 3/31/20 (dkt.46, timely served, dkt.49).

(b) Procedures order: dkt. 2 (timely served, dkt. 8, 9)

(c) Plan/Disclosure Statement*: N/a

(d) Continued status conference: 12/8/20 at 1:00 p.m. *Brief* status report due 11/24/20.

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

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If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, all appearances are telephonic via CourtCall at (888) 882-6878.

Tentative Ruling for 9/15/20:
Appearances required.

(1) Current issues

(a) Debtor's application to employ Colliers International Greater Los Angeles, Inc., dba Colliers International ("Colliers") (dkt. 138-140, 142, the "Employment Application"), Criscione-Meyer Parties' opposition (dkt. 144), Tarzana Crossing's opposition (dkt. 146, 149), Debtor's replies (dkt. 150, 151, 152, 157)

The tentative ruling is (i) to overrule the objections for the reasons stated in Debtor's reply papers (except to the extent of Debtor's and Colliers' accession to the 6-month term in Debtor's reply papers) but (ii) to prohibit dual agency as set forth below. The "Posted Procedures of Judge Bason" (available at www.cacb.uscourts.gov) provide notice that Judge Bason's standard employment order prohibits dual agency, and refer to an explanation of the problems with dual agency as set forth in another case. See *In re Ebuehi*, Case No. 2:18-bk-20704-NB, dkt. 281, at PDF pp.9-10). Nothing in the Employment Application provides any reason to depart from that policy.

Notwithstanding the foregoing, the tentative ruling is that the dangers inherent in dual agency are substantially ameliorated if (i) the individual(s) who represent the bankruptcy estate as seller operate out of a different branch office from the office of any individual(s) who represent prospective buyers and (ii) the compensation structure is structured in a way that does not implicate the concerns raised in *Ebuehi*. The tentative ruling is that, if Debtor and Colliers wish to attempt to meet these conditions, then this Court will set a

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deadline of 9/22/20 to file declaration(s) addressing these conditions (including a detailed disclosure of the compensation structure), and serve such declarations on the United States Trustee and all parties in interest who attend this hearing. Alternatively, if they do not wish to pursue that alternative, the tentative ruling is to condition any approval of the Employment Application on an absolute bar on any dual agency - *i.e.*, no person at Colliers may represent any prospective buyer.

Proposed order: *If* this matter is not continued, and this Court is persuaded to grant the Employment Application immediately, Debtor is directed to lodge a proposed order via LOU within 7 days after the hearing date and attach a copy of this tentative ruling, thereby adopting it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 11/29/19.

(a) Bar date: 3/31/20 (dkt.46, timely served, dkt.49).

(b) Procedures order: dkt. 2 (timely served, dkt. 8, 9)

(c) Plan/Disclosure Statement*: N/a

(d) Continued status conference: 10/27/20 at 1:00 p.m., concurrent with other matters. No written status report is required.

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

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, all appearances are telephonic via CourtCall at (888) 882-6878.

Tentative Ruling for 8/18/20:

Sustain the claim objections and continue the Status Conference as set forth below. Appearances required as to the Status conference, but not as to the claim objections. If you wish to dispute the tentative ruling as to the claim objections, you must notify other parties of your intent to appear

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Pursuant to Judge Bason's COVID19 Procedures, **ONLY TELEPHONIC APPEARANCES WILL BE PERMITTED** until further notice. Please contact CourtCall at (888) 882-6878 to make arrangements for any telephonic appearance. There is no need to contact the Court for permission. Parties who are not represented by an attorney will be able to use CourtCall for free through 9/30/20. Attorneys will receive a 25% discount (for more information, see www.cacb.uscourts.gov, "Judges," "Bason, N.," "Telephonic Instructions").

(1) Current issues

(a) Omnibus claim objection ("Claim Objection," dkt.121) by Dos Cabezas Properties, LLC, Criscione-Meyer Entitlement, Michael Criscione and Michael Meyer's ("Claim Objectors"); stipulation & order continuing hearing (dkt. 129, 131); opposition (dkt.137) of Tarzana Crossing, a Merchant Faire, LLC ("Tarzana Crossing"); no reply is on file

Claim Objectors seek disallowance of the following Claims in full: Claim Nos. 4, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 22, 23, 24, 25, 26, 27, 29, 31, 33, 34, 35, 36 and 37 (the "Claims"). The Claim Objectors assert three grounds for disallowance of all Claims:

(w) the Claims are "interests," not "claims" entitled to a pro rata distribution with other creditors,

(x) the Claims fail to state an amount that is purportedly claimed, and

(y) the Claims are not supported by a copy of a writing as required by Rule 3001(c)(1) (Fed. R. Bankr. P.). Dkt. 40, p.39.

The Claim Objectors also object to claims 24, 25, 26, and 37 on an additional ground:

(z) that they are duplicative of claims previously filed by the holders of those claims. *Id.*, p.40.

The tentative ruling is to sustain the Claim Objection as to all claims on ground "(w)." In addition, the tentative ruling, as to ground "(z)," is to sustain the objection insofar as disallowing the earlier version of each duplicative claim.

(i) Legal standards for objections to claim

"The term 'claim' is broadly defined to mean "a right to payment,

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whether or not such right is reduced to judgment, liquidated, **unliquidated**, fixed, **contingent**, matured, unmatured, *disputed*, undisputed, legal, equitable, secure, or unsecured" 11 U.S.C. 101(5)(A) (emphasis added). The term also broadly includes a "right to an equitable remedy for breach of performance" 11 U.S.C. 101(5)(B). "The Code utilizes this 'broadest possible definition' of claim to ensure that 'all legal obligations of the debtor, *no matter how remote or contingent*, will be able to be dealt with in the bankruptcy case." *In re SNTL Corp.*, 571 F.3d 826, 838 (9th Cir. 2009). Furthermore, "a claim may exist for bankruptcy and discharge purposes long before a cause of action accrues under nonbankruptcy law." *Id.*, at 839. "It is only necessary that the creditor be able to fairly or reasonably contemplate the claim's existence as of the petition date." *Id.*

The exclusive grounds under which a debtor may successfully object to a claim are listed in 11 U.S.C. 502(b). *In re Campbell*, 336 B.R. 430 (9th Cir. BAP 2005); *In re Heath*, 331 B.R. 424, 435 (9th Cir. BAP 2005).

(ii) The Claims, apart from the Claim of Tarzana Crossing

With the exception of the Tarzana Crossing Claim (Claim No. 23-1/23-2) (discussed separately below), the tentative ruling is as follows.

(A) The Claims are "equity interests" subject to mandatory subordination (11 U.S.C. 510(b))

Claim Objectors assert that the Claims should be disallowed because they are "interests" rather than "claims." The tentative ruling is that this is correct: the Claims are, by their own admission, equity interests and, as such, must be subordinated to general unsecured claims pursuant to 11 U.S.C. 510(b). *See e.g. In re Tristar Esperanza Props., LLC*, 782 F.3d 492 (9th Cir. 2015) (a claim arising from an equity interest in a limited liability company is subordinated to general unsecured creditors). *See also* dkt. 1, PDF pp.11-15 (Debtor's listing of alleged claims as equity interests on bankruptcy schedules).

(B) Duplicate claims are properly disallowed

Claim Objectors assert that claim 24-1 is a duplicate of claim 19-1, that claim 25-1 is a duplicate of claim 20-1, that claim 26-1 is a duplicate of claim 18-1, and that claim 37-1 is a duplicate of claim 35-1. The tentative ruling is to grant the objection in substance by treating the later filed claims as amendments to the earlier filed claims, and then disallowing the earlier filed

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claims as duplicative (*i.e.*, disallow claims 18-1, 19-1, 20-1, and 35-1).

(C) The fact that a claim is contingent is not a proper basis to disallow a claim under section 502(b)(1)

Section 502(b)(1) provides that a claim is not allowable if it is unenforceable under the applicable agreement or law "for a reason other than because such claim is contingent or unmatured." 11 U.S.C. 502(b)(1). "Under section 502(b)(1), [] contingent claims cannot be disallowed simply because the contingency occurred postpetition." *SNTL Corp.*, 571 F.3d at 838.

Therefore, the tentative ruling is to overrule Claim Objectors' request to disallow the Claims based on the fact that fail to state the amount of their respective claims.

(D) Failure to attach supporting documentation is not a sufficient basis to disallow a claim

Under *Heath*, "a request for complete disallowance of the claim merely because of inadequate documentation" is not a proper objection. 331 B.R. 424, 435. Accordingly, the tentative ruling is to overrule the Claim Objectors' request to disallow the Claims on the grounds they are not supported by copies of the operating agreement.

(iii) The Tarzana Crossing Claim

Tarzana Crossing opposes the Claim Objection on the grounds that its claim (Claim 23-2) "is not based on an equity interest in [Debtor] *alone*," but is also "based on the same pre-petition claims for which Tarzana Crossing filed suit long before this bankruptcy case was filed . . ." Dkt. 137, p.6:3-5 (emphasis added). But the United States Court of Appeals for the Ninth Circuit (the "Ninth Circuit") considered and rejected similar arguments in *Tristar*, 782 F.3d 492.

In *Tristar*, the Ninth Circuit affirmed the lower courts' determination that 11 U.S.C. 510(b)'s mandatory subordination applied to the claim of a former member of the debtor limited liability company (the "LLC") who obtained a judgment valuing her equity interest after the LLC did not honor a provision in its operating agreement requiring a buy-back of the withdrawing member's interest. *Id.* The Ninth Circuit confirmed that § 510(b) "sweeps broadly" (*id.* at 495) and held that "the critical question for purposes of § 510(b) . . . is not whether the claim is debt or equity at the time of the petition, but rather

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whether the claim *arises from* the purchase or sale of a security" and concluded that the "claim must be subordinated if there is a sufficient 'nexus or causal relationship between the claim and the purchase' or sale of securities." *Id.* at 497 (citation omitted).

The tentative ruling is that Tarzana Crossing's State Court claims are all directly related to and "arise from" its purchase of "security of the debtor" and Tarzana Crossing has not demonstrated that any damages it might recover from the State Court action against the Debtor would be anything but "damages arising from the purchase . . . of such a security." See 11 U.S.C. 510(b).

Therefore, the tentative ruling is to sustain the Claim Objectors' objection to the Tarzana Crossing Claim and order Claim 23-2 subordinated to general unsecured claims pursuant to 11 U.S.C. 510(b).

The tentative ruling is to deny the Claim Objectors' objection to this claim on all other grounds, for the reasons stated above.

Proposed order: The Claim Objectors are directed to lodge a proposed order via LOU within 7 days after the hearing date and attach a copy of this tentative ruling, thereby adopting it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 11/29/19.

(a) Bar date: 3/31/20 (dkt.46, timely served, dkt.49).

(b) Procedures order: dkt. 2 (timely served, dkt. 8, 9)

(c) Plan/Disclosure Statement*: N/a

(d) Continued status conference: 10/27/20 at 1:00 p.m. *Brief* written status report due 10/13/20.

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

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

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[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

110 West Properties, LLC

Represented By
Gregory K Jones
Jeffrey Huron
Danielle N Rushing

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2:20-11333 Edmund Lincoln Anderson

Chapter 11

#1.00 Hrg re: Debtor's motion for order disallowing claim number 18 pursuant to FRBP 3003(c)(2), 11 U.S.C. section 502(b)(9)

Docket 292

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 2, 3/2/21 at 2:00 p.m.).

Party Information

Debtor(s):

Edmund Lincoln Anderson

Represented By
Stella A Havkin

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#2.00 Cont'd Status Conference re: Chapter 11 Case
fr. 3/3/20, 3/10/20, 4/7/20, 4/21/20, 6/2/20, 7/14/20,
7/28/20, 8/18/20, 9/1/20, 10/6/20, 10/27/20, 12/1/20,
1/5/21, 2/9/21

Docket 1

Tentative Ruling:

Tentative Ruling for 3/2/21:

Appearances required.

(1) Current issues

(a) Debtor and Debtor in Possession Motion for Order Disallowing Claim Number 18 Pursuant to FRBP 3003(c)(2) and 11 U.S.C. Section 502(b)(9) (dkt. 292); notice and amended notice of hearing (dkt.294, 297)

Oddly, the proofs of service of the motion and the notices of hearing all omit the claimant. The tentative ruling is to continue the motion as set forth below, with a **deadline of 3/5/21** for Debtor to serve the motion and notice of the continued hearing date.

(b) Monthly Operating Reports ("MORs"): continuing compliance stip. (dkt. 232); order approving same (dkt. 234); lack of breakdown of gross revenues, expenses, and net revenues in past MORs (see Tentative Ruling for 2/9/21); lack of MOR for January, 2021

Debtor is directed to address why Debtor continues to be out of compliance with MORs, and what action this Court should take.

(2) Deadlines/dates. This case was filed on 2/6/20.

(a) Bar date: 5/1/20 (dkt. 50; timely served, dkt. 55).

(b) Procedures order: dkt. 7 (timely served, dkt.8)

(c) Plan/Disclosure Statement (dkt. 251, 250)*: TBD.

(d) Continued status conference: 4/6/21 at 2:00 p.m. No written status report is required.

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

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If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 2/9/21:
Appearances required.

(1) Current issues

(a) Motion (Claim Objection) re 2009 taxes in Proof of Claim Number 5 (dkt. 155), Opposition of U.S./IRS (dkt. 268), Debtor's reply (dkt.269), Status Conference and Scheduling Order (dkt. 284).

On 1/21/21, this Court entered a Status Conference and Scheduling Order in connection with Debtor's claim objection. The Scheduling Order set a pre-trial conference date for 7/27/21 at 1:00 p.m. The tentative ruling is not to set any additional hearings on the Claim Objection before then.

(b) Monthly Operating Reports ("MORs") (dkt. 298)

At the 1/5/21 hearing, Debtor's counsel stated that she would work with Debtor to ensure that future MORs are clearer. Upon review of the December MOR, all accounts remain labeled as general accounts. Debtor is directed to address why the accounts are not labeled according to the property to which each one relates as discussed at the 1/5/21 hearing.

Debtor is also directed to address where the rental income has been deposited. It is unclear where the amounts listed on the spreadsheets detailing the income for each property have been deposited. Dkt. 298, PDF pp. 61–69.

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- (2) Deadlines/dates. This case was filed on 2/6/20.
- (a) Bar date: 5/1/20 (dkt. 50; timely served, dkt. 55).
 - (b) Procedures order: dkt. 7 (timely served, dkt.8)
 - (c) Plan/Disclosure Statement (dkt. 251, 250)*: TBD.
 - (d) Continued status conference: 3/2/21 at **2:00 p.m.** to be concurrent with the objection to claim no. 18 (dkt.292, 297). No written status report is required.
- *Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Edmund Lincoln Anderson

Represented By
Stella A Havkin

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2:13-26483 Saeed Cohen

Chapter 11

#3.00 Hrg re: Motion for Entry of Final Decree and Related Relief

Docket 1543

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 4, 3/2/21 at 2:00 p.m.).

Party Information

Debtor(s):

Saeed Cohen

Represented By
Ron Bender
Krikor J Meshefejian
Kurt Ramlo
Beth Ann R Young
Todd M Bailey

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2:13-26483 Saeed Cohen

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#4.00 Cont'd Status Conference re: Post Confirmation
fr. 5/23/17, 8/8/17, 9/12/17, 12/12/17, 1/9/18,
4/10/18, 4/17/18, 07/17/18, 11/20/18, 12/11/18,
03/12/19, 3/26/19; 08/06/19, 11/5/19, 12/10/19,
3/10/20, 6/30/20, 9/29/20, 1/26/21

Docket 0

Tentative Ruling:

Tentative Ruling for 3/2/21:

Appearances are not required.

(1) Current issues

(a) Debtor's Motion for Entry of a Final Decree and Order Closing Case (dkt. 1543, 1547); Joinder of Post-Confirmation Creditor's Representative in Reorganized Debtor's Motion for Entry of a Final Decree and Related Relief (dkt. 1546).

There are no filed objections on the docket and the requirements for entry of a final decree appear to be satisfied. The tentative ruling is to grant the motion and issue an order closing this case on an interim basis, subject to being reopened for entry of Debtor's discharge and/or any other appropriate matters as to which this Court has retained jurisdiction.

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

(2) Deadlines/dates

This case was filed on 6/25/13, and Debtor's plan was confirmed on 7/31/15 (dkt. 1110). The tentative ruling is that no future status conferences are required at this time, because this case will be closed (on an interim basis).

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

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www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, all appearances are telephonic via CourtCall at (888) 882-6878.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Saeed Cohen

Represented By
Ron Bender
Krikor J Meshefejian
Kurt Ramlo
Beth Ann R Young
Todd M Bailey

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2:19-23664 Liat Talasazan

Chapter 7

Adv#: 2:20-01027 Talasazan v. Oxygen Funding, Inc. et al

- #5.00** Cont'd Status Conference re: Complaint for Damages, Declaratory Relief and Injunctive Relief for 1.) Violation of Automatic Stay; 2.) Turnover Under 11 U.S.C. Section 542; 3) Avoidance of Transfer Under 11 U.S.C. Section 544; 4) Avoidance of Fraudulent Transfer Under 11 U.S.C. Section 548; 5) Recovery and Preservation of Avoided Transfers Pursuant to 11 U.S.C. Sections 550(a), 551; 6) Unfair Practices under California Business & Professions Code Section 17200; and 7) Slander of Title
fr. 4/21/20, 9/15/20, 12/22/20, 2/9/21

Docket 1

Tentative Ruling:

Tentative Ruling for 3/2/21 (same as for 2/9/21, 12/22/20, except dates):

This matter remains stayed, per this Court's oral ruling at the status conference on 9/15/20. Please see the tentative ruling for the main case status conference (Calendar No. 9, 3/2/21 at 2:00 p.m.).

Tentative Ruling for 9/15/20:

Appearances required.

This Court has reviewed the parties' joint status report (dkt. 37) and the other filed documents and records in this adversary proceeding.

Current issues

(a) Apparent waste of resources and/or unwillingness to prosecute

This Court continues to have serious concerns why it makes any sense for Debtor to dispute the alleged security interest of Oxygen Funding, Inc. when (i) Debtor continues to assert that all creditors will be paid 100% of their allowed claims regardless whether those claims are or are not secured by any collateral, (ii) the Bankruptcy Code includes many tools to assure that disputed security interests do not block attempted refinancings, sales, or other uses of estate property (see, e.g., 11 U.S.C. 363(f), 1129(b)(1)), and (iii) the expense of this litigation to the bankruptcy estate appears very likely to exceed any possible future benefits (*but cf.* dkt.282 re unauthorized funding

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of Debtor's counsel by non-debtor husband). At prior hearings this Court was persuaded not to take any action on the foregoing concerns, pending mediation, but the parties report (adv.dkt.37) that mediation was unsuccessful.

Conversely, assuming for the sake of discussion that for some reason would make any sense to pursue this litigation, Debtor/Plaintiff appears to be unwilling to prosecute it unless and until she can obtain a different forum. She states, in the parties' joint status report (adv.dkt.37, p.4, para.G) that she will seek dismissal of this bankruptcy case and then pursue this litigation in State Court.

The parties are directed to address whether this Court should (i) stay this litigation indefinitely, pending the results of attempts by Debtor and the Subchapter V Trustee to sell or refinance the "Laurel" property, or confirm a chapter 11 plan, or implement other means of restructuring Debtor's finances, (ii) dismiss this adversary proceeding for lack of prosecution if Debtor/Plaintiff does not prosecute it pursuant to the deadlines tentatively set forth below, or (iii) establish some other deadlines or procedures regarding this matter.

(A) Standard requirements

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (docket numbers 26, 37)

(2) Mediation [Intentionally omitted]

(3) Deadlines

This adversary proceeding has been pending since 2/10/20. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Joinder of parties/amendment of pleadings: 10/30/20 deadline.

Discovery cutoff (for *completion* of discovery): 11/13/20.

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Expert(s) - deadline for reports: 11/20/20

Expert(s) - discovery cutoff (if different from above): 11/20/20

Dispositive motions to be heard no later than: 12/22/20

Joint Status Report: 12/8/20

Continued status conference: 12/22/20 at 1:00 p.m.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: TBD

Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, all appearances are telephonic via CourtCall at (888) 882-6878.

Party Information

Debtor(s):

Liat Talasazan

Represented By
Giovanni Orantes
Luis A Solorzano

Defendant(s):

Oxygen Funding, Inc.

Represented By
Vonn Christenson

Adam Landis Lomax

Represented By
Vonn Christenson

Plaintiff(s):

Liat Talasazan

Represented By
Luis A Solorzano

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Giovanni Orantes

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Trustee(s):

Caroline Renee Djang (TR)

Pro Se

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2:19-23664 Liat Talasazan

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#6.00 Cont'd hrg re: Motion for Turnover of Property of the Estate
Pursuant to 11 U.S.C. § 542
fr. 9/15/20, 9/29/20, 10/27/20, 12/1/20, 12/22/20, 2/9/21

Docket 280

Tentative Ruling:

Tentative Ruling for 3/2/21:

Please see the tentative ruling for the status conference (Calendar No. 9,
3/2/21 at 2:00 p.m.).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Liat Talasazan

Represented By
Giovanni Orantes
Luis A Solorzano

Movant(s):

Caroline Renee Djang (TR)

Pro Se

Trustee(s):

Caroline Renee Djang (TR)

Pro Se

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2:19-23664 Liat Talasazan

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#7.00 Cont'd hrg re: Emergency Motion for Order (1) Directing the United States Marshal or Other Appropriate Law Enforcement Agency to Evict the Debtor, Her Parents and/or Any and All Other Occupants From the Real Property Located at 636 N. Laurel Ave., Los Angeles, CA 90048; and (2) Issuing an Order to Show Cause Re Contempt
fr. 10/27/20, 12/1/20, 12/22/20, 2/9/21

Docket 318

Tentative Ruling:

Tentative Ruling for 3/2/21:

Please see the tentative ruling for the status conference (Calendar No. 9, 3/2/21 at 2:00 p.m.).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Liat Talasazan

Represented By
Giovanni Orantes
Luis A Solorzano

Movant(s):

Caroline Renee Djang (TR)

Pro Se

Trustee(s):

Caroline Renee Djang (TR)

Pro Se

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2:19-23664 Liat Talasazan

Chapter 7

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

MICHAEL TREMBLAY, trustee
vs
DEBTOR

Docket 504

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 9, 3/2/21 at 2:00 p.m.).

Party Information

Debtor(s):

Liat Talasazan

Represented By
Giovanni Orantes
Luis A Solorzano

Movant(s):

Michael Tremblay, Trustee

Represented By
David I Brownstein

Trustee(s):

Caroline Renee Djang (TR)

Represented By
David Wood

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#9.00 Cont'd Status Conference re: Chapter 7 Case
fr. 1/28/20, 2/18/20, 3/3/20, 3/10/20, 03/31/20,
4/7/20, 5/12/20, 5/19/20, 6/2/20, 6/16/20, 7/28/20,
8/18/20, 9/1/20, 9/15/20, 9/29/20, 10/27/20, 12/1/20,
12/22/20, 2/9/21

Docket 49

Tentative Ruling:

Tentative Ruling for 3/2/21:

Appearances required.

(1) Current issues

(a) Subchapter V Trustee's motion for turnover of Laurel Property (dkt. 280), Debtor's opposition (dkt. 285), Michael Tremblay's response (dkt. 291), Interim Turnover Order (dkt. 300)

The parties are directed to update this Court on the status of this motion and address whether any additional relief is appropriate. The tentative ruling is to take this matter off calendar, without prejudice to the Chapter 7 Trustee placing it back on calendar on 14 days' notice (and direct the Trustee to lodge a proposed order memorializing such shortened notice). On the other hand, if continuance of this matter is appropriate, the tentative ruling is for such continuance to be concurrent with the continued status conference (see below, section "(2)(a)").

(b) Subchapter V Trustee's motion re eviction/contempt (dkt. 318, 319, the "Eviction/OSC Motion"), 319), Debtor & Orantes declarations (dkt. 320, 322), Orantes declaration (dkt. 322), Order shortenting time (dkt. 323) and POS (dkt. 326), Trustee declaration (dkt. 328), Debtor & Orantes declarations & opposition (dkt. 329, 330, 331), Trustee's declaration re compensatory sanctions (dkt. 335), order imposing compensatory sanctions (dkt. 400)

The parties are directed to update this Court on the status of this motion and address whether any additional relief is appropriate. The tentative ruling is to take this matter off calendar, without prejudice to the Chapter 7 Trustee placing it back on calendar on 14 days' notice (and direct

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the Trustee to lodge a proposed order memorializing such shortened notice). On the other hand, if continuance of this matter is appropriate, the tentative ruling is for such continuance to be concurrent with the continued status conference (see below, section "(2)(a)").

(c) Motion of Tremblay Trust for relief from automatic stay (the "Tremblay R/S Motion," dkt.9, 93), Opposition (dkt.95, 96, 129, 138), and Status Report/supplement (dkt.503), renewed motion for relief from the automatic stay (dkt. 504, 518), Celtic Bank's opposition (dkt. 514), joinders of Debtor & Trustee (dkt. 526, 528), Tremblay's reply (dkt. 537)

Appearances required.

(d) Talasazan v. Oxygen Funding, Inc., et al (2:20-ap-01027-NB)

On 9/15/20, this Court ordered this matter stayed and has continued the hearing several times to allow time for the Chapter 7 trustee to evaluate the merits of the claims and determine how to proceed. The trustee should be prepared to address where things stand with this litigation.

Proposed orders: The Trustee is directed to lodge proposed orders reflecting any other disposition of the above items beyond mere continuance, and attach relevant portions of this tentative ruling, via LOU within 7 days after the hearing date, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 11/20/19, converted from chapter 13 to chapter 11 on 1/2/20, designated by Debtor as a Subchapter V case on 3/2/20 (dkt.128), and converted to chapter 7 on 12/1/20 (dkt. 412).

(a) Continued status conference: 5/4/21 at 2:00 p.m. No written status report required.

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

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COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 2/9/21:
Appearances required.

(1) Current issues

(a) Debtor's finance motion (dkt. 390, "Finance Motion") & supporting declarations (dkt. 391, 392, 394, 396, 397, 398, 399, 401, 410), notice of hearing (dkt. 404), proof of service (dkt. 406); Celtic Bank opposition (dkt. 415); Oxygen Funding opposition (dkt. 428); Trustee's joinder (dkt. 430); Michael Tremblay opposition (dkt. 433), East West Bank opposition (dkt. 444), Debtor's reply (dkt. 445)

This Court continued this hearing on the condition that Debtor satisfy certain requirements set forth in dkt. 456. First, the parties should be prepared to address whether Debtor has satisfied those requirements. Second, if so, the docket does not reflect any update that would make this latest proposed refinancing more realistic than Debtor's prior attempts, so the tentative ruling is to deny the motion without prejudice.

(b) Debtor's latest motion to reconsider Turnover Order [dkt. 300], Eviction Order [dkt. 333] and Conversion Order [dkt. 412] (dkt. 402, "Reconsideration Motion") & Orantes decl (dkt. 403), notice of hearing (dkt. 404), proof of service (dkt. 406), Celtic Bank's opposition (dkt. 416), Trustee's joinder (dkt. 423); Michael Tremblay's joinder (dkt. 432), Debtor's reply (dkt. 445)

This Court continued this hearing on the condition that Debtor satisfy certain requirements set forth in dkt. 456. First, the parties are directed to address whether Debtor has satisfied those requirements. Second, if so, the tentative ruling is that the docket does not reflect any developments that would create any sufficient cause for restoration of possession of the family home and/or reconversion of this bankruptcy case, despite Debtor's long history of a lack of progress toward paying creditors, violations of her duties, and violations of this Court's orders, including turnover orders.

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(c) Subchapter V Trustee's motion for turnover of Laurel Property (dkt. 280), Debtor's opposition (dkt. 285), Michael Tremblay's response (dkt. 291), Interim Turnover Order (dkt. 300)

The parties are directed to update this Court on the status of this motion and address whether any additional relief is appropriate. The tentative ruling is to take this matter off calendar, without prejudice to the Chapter 7 Trustee placing it back on calendar on 14 days' notice. On the other hand, if continuance of this matter is appropriate, the tentative ruling is for such continuance to be concurrent with the continued status conference (see below, section "(2)(a)").

(d) Subchapter V Trustee's motion re eviction/contempt (dkt. 318, 319, the "Eviction/OSC Motion"), 319), Debtor & Orantes declarations (dkt. 320, 322), Orantes declaration (dkt. 322), Order shortenting time (dkt. 323) and POS (dkt. 326), Trustee declaration (dkt. 328), Debtor & Orantes declarations & opposition (dkt. 329, 330, 331), Trustee's declaration re compensatory sanctions (dkt. 335), order imposing compensatory sanctions (dkt. 400)

The parties are directed to update this Court on the status of this motion and address whether any additional relief is appropriate. The tentative ruling is to take this matter off calendar, without prejudice to the Chapter 7 Trustee placing it back on calendar on 14 days' notice. On the other hand, if continuance of this matter is appropriate, the tentative ruling is for such continuance to be concurrent with the continued status conference (see below, section "(2)(a)").

(e) Debtor's objection to Oxygen Funding, Inc.'s proof of claim (dkt. 474, 475, 476), Oxygen's opposition (dkt. 493), Debtor's reply (dkt. 500)

The tentative ruling is to deny the objection, without prejudice, for the procedural reasons stated in sections II.A & II.B of the opposition (dkt. 493) - namely, that an adversary proceeding is required, and that Debtor's cost/benefit analysis is unpersuasive. This Court adds that Debtor's claim objection appears to this Court to be nothing more than an impermissible collateral attack on this Court's order staying her pending adversary proceeding. Alternatively, even if this Court were to construe Debtor's claim objection as a motion for reconsideration of this Court's order staying the adversary proceeding (under Rule 9024, Fed. R. Bankr. P.), that motion would

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be unpersuasive.

There is no showing of any newly discovered evidence or other grounds for reconsideration. In addition, the same analysis that led this Court to stay the adversary proceeding continues to apply. Either (i) Debtor lacks standing, if this chapter 7 bankruptcy estate is insolvent, or alternatively (ii) if the estate is solvent then Oxygen's claim will be paid in full anyway, regardless whether that claim is secured or unsecured, so there does not appear to be any point in pursuing the claim litigation at this time.

Debtor incorrectly asserts that unsecured creditors have "no right under the [Bankruptcy] Code to accrue interest post-petition." Dkt.474, p.4:24. Interest is payable under 11 U.S.C. 726(a)(5).

True, the *rate* of interest might be different, but Debtor has not shown how that makes a *sufficient* difference to warrant the expense of her proposed litigation. In other words, assuming for the sake of discussion that the bankruptcy estate is solvent, there is a risk that it will become insolvent if expensive litigation were to be pursued, because of Debtor's attorney fees, or because of Oxygen's attorney fees (if it were to be successful), or both.

Debtor argues in the alternative that pursuing her claim litigation is appropriate because otherwise Oxygen can "block the refinancing" that she hopes to obtain. Dkt.474, p.5:4. But, as this Court has pointed out before, the Bankruptcy Code has tools to overcome any attempt by a lienholder to block a refinancing or sale if such refinancing or sale are warranted under all the facts and circumstances. See, e.g., 11 U.S.C. 363(f), 364(d).

In other words, Debtor has not established that the problem with any refinancing is Oxygen's (asserted) lien. The problem is that Debtor has yet to present any realistic refinancing or other options.

In sum, Debtor's claim objection appears to be an attempted end-run around this Court's order staying her adversary proceeding, which is barred as a collateral attack on that order. Alternatively, if Debtor's papers were construed as a motion for reconsideration, the same concerns that led this Court to stay that adversary proceeding apply to the claim objection. Pursuing either type of litigation at this time appears to be a waste of time and money for the estate, Oxygen, and all other parties in interest. Counsel for Debtor is cautioned against further attempts at collaterally attacking this Court's orders.

(f) Talasazan v. Oxygen Funding, Inc., et al (2:20-ap-01027-NB), joint

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status report (adv. dkt. 41)

On 9/15/20, this Court ordered this matter stayed and continued the hearing to this date to allow time for the Chapter 7 trustee to evaluate the merits of the claims and determine how to proceed. The trustee should be prepared to address where things stand with this litigation.

(g) Motion of Debtor's counsel to be relieved (dkt.492); Opposition of United States Trustee (dkt.501); Joinder of Chapter 7 Trustee (dkt.502)

Should this Bankruptcy Court set a hearing on this motion?

(h) Motion of Tremblay Trust for relief from automatic stay (the "Tremblay R/S Motion," dkt.9, 93), Opposition (dkt.95, 96, 129, 138), and Status Report/supplement (dkt.503)

The Tremblay Trust points out that this Court's order continuing the automatic stay (dkt.46) granted that relief only until further order of this Court, and included a caution to Debtor that lack of proper prosecution of this case could lead to further relief. It also notes that this Court has found a lack of proper prosecution and bad faith by Debtor; it points out that the liens asserted against the Laurel Avenue property exceed the offers received by the Chapter 7 Trustee; and it reports that Celtic Bank has not agreed to a short sale. The parties are directed to address whether this Court should place the Tremblay R/S Motion back on calendar.

Proposed orders: The Trustee is directed to lodge proposed orders reflecting any other disposition of the above items beyond mere continuance, and attach relevant portions of this tentative ruling, via LOU within 7 days after the hearing date, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 11/20/19, converted from chapter 13 to chapter 11 on 1/2/20, designated by Debtor as a Subchapter V case on 3/2/20 (dkt.128), and converted to chapter 7 on 12/1/20 (dkt. 412).

(a) Continued status conference: 3/9/21 at 1:00 p.m. No written status report required.

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

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required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED (see Memorialization of Tentative Rulings, dkt.208 (filed 5/19/20) and dkt.303 (filed 9/21/20). See also Order Denying Motion for Stay (dkt.441, as amended by dkt.442).]

Party Information

Debtor(s):

Liat Talasazan

Represented By
Giovanni Orantes
Luis A Solorzano

Trustee(s):

Caroline Renee Djang (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Courtroom 1545 Calendar**

Friday, March 5, 2021

Hearing Room 1545

9:00 AM
2:00-00000

Chapter

#1.00 ZoomGov Instructions for all matters on today's calendar:

Meeting ID: 160 317 7588

Password: 151413

Meeting URL: <https://cacb.zoomgov.com/j/1603177588>

Telephone: +1 669 254 5252 or +1 646 828 7666 or 833 568 8864 (Toll Free)

Please connect at least 5 minutes before the start of your hearing, and wait with your microphone muted until your matter is called. You do not need to call Chambers for advance approval. ZoomGov appearances are free.

Docket 0

Tentative Ruling:

- NONE LISTED -

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Friday, March 5, 2021

Hearing Room 1545

10:00 AM

2:18-15559 R44 LENDING GROUP, LLC a Delaware Limited Liabilit

Chapter 11

#1.00 Cont'd hrg re: Confirmation of Chapter 11 Plan
fr. 6/12/18, 6/26/18, 08/07/18, 10/9/18, 11/6/18, 12/11/18,
03/12/19, 3/26/19, 5/14/19, 6/11/19, 07/02/19, 7/30/19,
9/17/19, 11/12/19, 12/17/19, 03/10/20, 6/16/20, 8/18/20,
09/29/20, 11/10/20, 2/16/21

Docket 5

Tentative Ruling:

Appearances required.

This Court will give limited, oral tentative rulings at the commencement of the hearing.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

R44 LENDING GROUP, LLC a

Represented By
Jeffrey S Shinbrot

**United States Bankruptcy Court
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Judge Neil Bason, Presiding
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Friday, March 5, 2021

Hearing Room 1545

10:00 AM

2:18-15559 R44 LENDING GROUP, LLC a Delaware Limited Liabilit

Chapter 11

#2.00 Cont'd Status Conference re: Chapter 11 Case
fr. 6/12/18, 6/26/18, 08/07/18, 10/9/18, 11/6/18,
12/11/18, 03/12/19, 3/26/19, 5/14/19, 6/11/19,
7/2/19, 7/30/19, 9/17/19, 11/12/19, 12/17/19,
3/10/20, 6/16/20, 8/18/20, 9/29/20, 11/10/20,
12/8/20, 2/16/21

Docket 5

Tentative Ruling:

Appearances required.

This Court will give limited, oral tentative rulings at the commencement of the hearing.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

R44 LENDING GROUP, LLC a

Represented By
Jeffrey S Shinbrot

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Tuesday, March 9, 2021

Hearing Room 1545

9:00 AM

2:00-00000

Chapter

#0.00 ZoomGov Instructions for all matters on today's calendar:

Meeting ID: 161 941 6128

Password: 709849

Meeting URL: <https://cacb.zoomgov.com/j/1619416128>

Telephone: +1 669 254 5252 or +1 646 828 7666 or 833 568 8864 (Toll Free)

Please connect at least 5 minutes before the start of your hearing, and wait with your microphone muted until your matter is called. You do not need to call Chambers for advance approval. ZoomGov appearances are free.

Docket 0

Tentative Ruling:

- NONE LISTED -

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10:00 AM

2:19-23664 Liat Talasazan

Chapter 7

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

UNITED STATES DEPARTMENT OF
HOUSING AND URBAN DEVELOPMENT
VS
DEBTOR

Docket 524

Tentative Ruling:

Appearances are not required.

Grant.

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

Key documents reviewed (in addition to motion papers): Debtor's notice of non-opposition (dkt. 536)

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1), (d)(2), and (d)(4).

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

Relief notwithstanding future bankruptcy cases.

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

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue,

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CONT...

Liat Talasazan

Chapter 7

then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

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

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

No prejudice to Debtor intended. Based on the record, it appears that this might be a "hijacked" case, and that Debtor might be innocent of any involvement. See e.g., *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017) (describing hijacking); *In re Dorsey*, 476 B.R. 261 (Bankr. C.D. Cal. 2012) (same). In a hijacking case, the Debtor faces the legitimate concern of being subject to a 180-day bar and other adverse consequences if, for example, Debtor later requests and obtains a voluntary dismissal and subsequently needs to file another bankruptcy petition. See, e.g., 11 U.S.C. 109(g)(2), 362(b)(21)(A). There is authority that section 109 "eligibility issues" are nonjurisdictional, can be waived, forfeited, or subject to estoppel, and should not be applied if that would produce an "illogical, unjust, or capricious result, or when the benefit of dismissal would inure to a bad faith creditor." *In re Leaffy*, 489 B.R. 545, 550-51 (9th Cir. BAP 2012) (citing cases including under 109(g)(2)). See also *In re Mendez*, 367 B.R. 109, 116-17 (9th Cir. BAP 2007); *In re Luna*, 122 B.R. 575, 577 (9th Cir. BAP 1991); *Dorsey*, 476 B.R. 261, 270. The same principles apply to any other adverse consequences from a hijacking. Accordingly, the tentative ruling is to condition the relief from the automatic stay granted in this tentative ruling such that no adverse consequences apply to Debtor from the hijacking, including under 11 U.S.C. 109(g)(2) or 362(b)(21)(A). Note: None of the foregoing will shield Debtor if it turns out that Debtor was not, in fact, innocent of any involvement in the

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CONT... **Liat Talasazan**

Chapter 7

apparent hijacking or other abusive scheme.

Effective date of relief

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

Co-debtor stay

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

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Liat Talasazan

Represented By
Giovanni Orantes
Luis A Solorzano

Movant(s):

United States Department of

Represented By
Elan S Levey

Trustee(s):

Caroline Renee Djang (TR)

Represented By
David Wood

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2:20-20354 Greg Davenport

Chapter 7

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

HSBC BANK USA, NATIONAL ASSOC
vs
DEBTOR

Docket 16

Tentative Ruling:

Appearances are not required.

Grant as set forth below.

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

Termination

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

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

Co-debtor stay

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

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov

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CONT... Greg Davenport Chapter 7

instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Greg Davenport

Pro Se

Movant(s):

HSBC Bank USA, National

Represented By
Jennifer C Wong
JaVonne M Phillips

Trustee(s):

Heide Kurtz (TR)

Pro Se

**United States Bankruptcy Court
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10:00 AM

2:21-10546 Jeannette Elizabeth Francia

Chapter 13

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

DAIMLER TRUST
vs
DEBTOR

Docket 13

Tentative Ruling:

Appearances are not required.

Grant.

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

Termination

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

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

Effective date of relief

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

Co-debtor stay

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

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

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CONT... Jeannette Elizabeth Francia

Chapter 13

are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Jeannette Elizabeth Francia

Represented By
Daniela P Romero

Movant(s):

Daimler Trust

Represented By
Sheryl K Ith

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 1545

10:00 AM

2:10-27279 Miguel R Ramos and Sandra Elizabeth Ramos

Chapter 13

#4.00 Hrg re: Motion in Individual Case for Order
Imposing a Stay or Continuing the Automatic
Stay as the Court Deems Appropriate

Docket 90

Tentative Ruling:

Appearances required.

Grant, subject to the following conditions, and also subject to any opposition at the hearing because, contrary to this Court's order shortening time (dkt. 93, pp.2-3), which set a deadline of 3/3/21 for any opposition, Debtor's notice (dkt. 95, p.2:3) states that any opposition must be filed "by the hearing date of March 9, 2021." The tentative ruling is to deny Debtor's counsel any attorney fees for appearing at this hearing, and to caution Debtor's counsel in future not to disregard the terms of this Court's orders.

After the hearing date this Court will prepare an order and the tentative ruling is to include the following language in that order:

The stay of 11 U.S.C. 362(a) applies because this case erroneously was closed without avoiding a junior lien; the junior lienholder has scheduled an imminent foreclosure sale; and relief appears to be appropriate due to "mistake" or "excusable neglect" under Rule 60(b)(1) Fed. R. Civ. P. (incorporated by Rule 9024, Fed. R. Bankr. P.). See also *In re Gledhill*, 76 F.3d 1070, 1078-80 (10th Cir. 1996), and *In re Camacho*, 361 B.R. 294, 299-300 (1st Cir. BAP 2007).

The imposition of the stay is subject to the following modifications and conditions:

(1) Service and reconsideration. Any party in interest who was not timely served in accordance with FRBP 7004 (incorporated by FRBP 9014(b)) is hereby granted through 14 days after proper service to seek reconsideration, including retroactive relief (under FRBP 9023 and/or 9024). Any such person (a) may set a hearing on 14 days' notice, (b) may appear by telephone (if arrangements

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CONT...

Miguel R Ramos and Sandra Elizabeth Ramos

Chapter 13

are made per Judge Bason's posted procedures), and (c) may present all arguments orally at the hearing (*i.e.*, no written argument is required). If written arguments appear necessary then this court will set a briefing schedule at the hearing.

(2) Reasons. (a) It appears appropriate to impose the automatic stay, and to impose it as to all persons rather than just as to selected persons, because one purpose of the automatic stay is to preventing a "race to collect" that could unfairly advantage some creditors at the expense of others. (b) To prevent possible abuse, this Court provides the foregoing simple process for reconsideration.

(3) Very limited ruling. This Court's tentative ruling to grant the foregoing relief is solely for purposes of this motion, and is not intended to have any binding effect with respect to any future assertions by any party in interest regarding the existence or lack of existence of good faith, excusable neglect, or mistake warranting relief in any other context.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Miguel R Ramos

Represented By
Michael V Jehdian
Leon D Bayer

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CONT... Miguel R Ramos and Sandra Elizabeth Ramos

Chapter 13

Joint Debtor(s):

Sandra Elizabeth Ramos

Represented By
Michael V Jehdian
Leon D Bayer

Movant(s):

Miguel R Ramos

Represented By
Michael V Jehdian
Leon D Bayer

Sandra Elizabeth Ramos

Represented By
Michael V Jehdian
Leon D Bayer

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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10:00 AM

2:17-23156 Robin Kashmire Roane

Chapter 13

#5.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 12/8/20, 1/12/21

U.S. BANK TRUST NATIONAL ASSOC
VS
DEBTOR

Docket 38

***** VACATED *** REASON: Voluntary dismissal of motion filed on
1/22/21 [dkt. 41]**

Tentative Ruling:

Party Information

Debtor(s):

Robin Kashmire Roane

Represented By
Barry E Borowitz

Movant(s):

U.S. Bank Trust National

Represented By
Merdaud Jafarnia
Jennifer C Wong
JaVonne M Phillips

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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10:00 AM

2:19-24202 Olivia Pino

Chapter 13

#6.00 Cont'd hrg re: Motion for relief from stay [PP]
fr. 12/1/20, 2/9/21

ALLY FINANCIAL
vs
DEBTOR

Docket 29

Tentative Ruling:

Tentative Ruling for 3/9/21:
Appearances required.

At the hearing on 2/9/21 this Court was persuaded to continue this matter to this date to allow time for the parties to finalize the terms of an adequate protection stipulation. The parties should be prepared to provide an update on the status of those negotiations.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 2/9/21:
Appearances required.

Based on the arguments and representations of the parties at the hearing on

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CONT... **Olivia Pino**

Chapter 13

12/1/20, this Court continued the matter to this date to allow time for the parties to negotiate the terms of an adequate protection order. There is no tentative ruling, but the parties should be prepared to provide an update on the status of those negotiations.

This Court also directed Movant to give notice of the continued hearing by no later than 12/18/20, but as of the preparation of this tentative ruling no notice is on file. Why not?

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 12/1/20:
Appearances are not required.

Grant as set forth below.

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

Termination

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

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

Co-debtor stay

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CONT...

Olivia Pino

Chapter 13

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

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Olivia Pino

Represented By
James D. Hornbuckle

Movant(s):

Ally Financial

Represented By
Sean C Ferry

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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10:00 AM

2:20-13424 Gretchen D Zalamea

Chapter 13

#7.00 Cont'd hrg re: Motion for relief from stay [PP]
fr. 2/9/21

FIRST INVESTORS FINANCIAL SERVICES
VS
DEBTOR

Docket 51

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

Tentative Ruling:

Party Information

Debtor(s):

Gretchen D Zalamea

Represented By
Jaime G Monteclaro

Movant(s):

First Investors Financial Services

Represented By
Sheryl K Ith

Trustee(s):

Kathy A Dockery (TR)

Pro Se

United States Bankruptcy Court
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Hearing Room 1545

10:00 AM

2:19-15628 Ayesha Danielle Robbins

Chapter 13

#8.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 3/2/21

U.S. BANK NATIONAL ASSOC
VS
DEBTOR

Docket 30

*** VACATED *** REASON: APO

Tentative Ruling:

Party Information

Debtor(s):

Ayesha Danielle Robbins

Represented By
Ali R Nader

Movant(s):

U.S. BANK NATIONAL

Represented By
Natalie E Lea
James F Lewin

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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11:00 AM

2:20-12192 Teresa Maria Avila

Chapter 7

#1.00 Hrg re: Trustee's final report and account;
Application for fees and expenses
[Peter J. Mastan, Ch. 7 Trustee]

Docket 44

Tentative Ruling:

Appearances are not required.

Approve the Trustee's final report and allow the Trustee \$780.75 in fees and \$33.05 in expenses, for a total of \$813.80.

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

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Teresa Maria Avila

Represented By
Julie J Villalobos

Trustee(s):

Peter J Mastan (TR)

Pro Se

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CONT... Teresa Maria Avila

Chapter 7

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11:00 AM

2:18-24507 Rima Adam Nano

Chapter 7

#2.00 Hrg re: Trustee's final report and account;
application for fees and expenses
[Elissa D. Miller, Ch. 7 Trustee]

Docket 34

Tentative Ruling:

Appearances are not required.

Approve the Trustee's final report and allow the Trustee \$1,000.00 in fees and \$0.00 in expenses, for a total award of \$1,000.00.

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

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Rima Adam Nano

Represented By
G Marshall Hann

Trustee(s):

Elissa Miller (TR)

Represented By

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CONT...

Rima Adam Nano

Noreen A Madoyan
Anna Landa

Chapter 7

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11:00 AM

2:18-24507 Rima Adam Nano

Chapter 7

#3.00 Hrg re: Application for payment of final fees and/or expenses
[Margulies Faith, LLP, Attorney for Ch. 7 Trustee]

Docket 33

Tentative Ruling:

Appearances are not required.

Grant the application; allow \$37,056.00 in fees and \$965.59 in expenses, for a total award of \$38,021.59; and authorize payment of \$4,500.00 (in accordance with the notice of proposed distributions, dkt. 38, p.2) plus \$965.59 in expenses, for a total payment of \$5,465.59.

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

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Rima Adam Nano

Represented By
G Marshall Hann

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CONT... Rima Adam Nano

Chapter 7

Trustee(s):

Elissa Miller (TR)

Represented By
Noreen A Madoyan
Anna Landa

**United States Bankruptcy Court
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11:00 AM

2:20-12732 Parvin Jamali

Chapter 7

#4.00 Hrg re: U.S. Trustee's Motion to Dismiss Chapter 7 Case
Pursuant to 11 U.S.C. Section 707(a)

Docket 216

***** VACATED *** REASON: Withdrawl on 3/2/21 [dkt 227]**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Parvin Jamali

Represented By
Yevgeniya Lisitsa
W. Derek May

Trustee(s):

Timothy Yoo (TR)

Represented By
Carmela Pagay

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Hearing Room 1545

11:00 AM

2:20-18631 Cristobal Cuauhtemoc Murillo Valdez

Chapter 13

Adv#: 2:21-01002 Kass v. Murillo Valdez

#5.00 Status conference re: Complaint to determine nondischargeability of debt (sections 523); and objection to discharge (section 727)

Docket 1

Tentative Ruling:

Appearances required.

(A) Current issues

This Court has reviewed the parties' joint status report (adv.dkt. 6) and the other filed documents and records in this adversary proceeding and is not aware of any issues to raise *sua sponte* at this time.

(B) Standard requirements

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority

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

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CONT... Cristobal Cuauhtemoc Murillo Valdez
Liquidation, Inc., 548 B.R. 300 (Bankr. C.D. Cal. 2016).

Chapter 13

(2) Mediation

In the parties' joint status report (adv. dkt. 6), the parties have both indicated that they would like this matter sent to mediation. The tentative ruling is to set a **deadline of 3/23/21** for the parties to lodge a proposed mediation order (the parties are directed to use the time between now and that deadline to find a mutually agreeable mediator whose schedule can accommodate the needs of this matter; and if the parties cannot even agree on a mediator they may lodge separate orders and Judge Bason will chose among them, or issue his own order).

(3) Deadlines

This adversary proceeding has been pending since 1/7/21. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Joinder of parties/amendment of pleadings-deadline: 9/7/21

Discovery cutoff (for completion of discovery): 9/21/21

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

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

Dispositive motions to be heard no later than: 11/9/21

Joint Status Report: 5/18/21

Continued status conference: 6/1/21 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers, including direct testimony by declaration unless excused: TBD (for the format of exhibits and other trial procedures, please see the Procedures of Judge Bason (posted at www.cacb.uscourts.gov) then search for "Trial Practice" BUT, at least during the COVID-19 shut down of the courtroom, also see the forms of order regarding video trials, posted on Judge Bason's portion of the Court's above-referenced web page)

Trial commencement: TBD

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

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CONT... **Cristobal Cuauhtemoc Murillo Valdez** **Chapter 13**

wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Cristobal Cuauhtemoc Murillo	Represented By Marc A Goldbach
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Defendant(s):

Cristobal Cuauhtemoc Murillo	Pro Se
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Plaintiff(s):

Martin J Kass	Represented By Dennis Kass David Riera Ruiz
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Trustee(s):

Kathy A Dockery (TR)	Pro Se
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**United States Bankruptcy Court
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Tuesday, March 9, 2021

Hearing Room 1545

11:00 AM

2:17-23651 Letitia Louise Wellington

Chapter 7

Adv#: 2:19-01211 Avery v. Wellington et al

- #6.00** Cont'd Status Conference re: Complaint for 1. Declaratory Relief; 2. Turnover of Bankruptcy Estate Property Under 11 U.S.C. Section 542(a); and 3. Authorization to Sell Estate Property Under 11 U.S.C. Section 363(h) and FRBP 7001(3) Free of Co-Owner Interest; 4. Bar Debtor and Amos Q. Wellington from Recovering Avoided Transfer Under Bankruptcy Code, Under 11 U.S.C. Section 522(g)(1)(A) and (B) fr. 9/24/19, 11/12/19, 3/10/20, 7/14/20, 09/01/20, 10/6/20, 12/08/20, 2/9/21

Docket 1

Tentative Ruling:

Tentative Ruling for 3/9/21:

Appearances required.

(A) Current issues

In this Court's order (dkt. 212) approving the parties' stipulation (dkt.209) to continue this status conference, the parties were directed to file a brief status report no later than 2/23/21. As of the date this tentative ruling was prepared, no status report has been filed. Why not?

(B) Standard requirements

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (see, e.g., adv. dkt. 14, p.6).

(2) Mediation. [intentionally omitted]

(3) Deadlines: This adversary proceeding has been pending since

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CONT... **Letitia Louise Wellington**

Chapter 7

7/11/19. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Discovery cutoff (for completion of discovery): N/A

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

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

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

Joint Status Report: 4/6/21.

Continued status conference: 4/20/21 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: N/A

Pretrial conference: N/A

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

Trial commencement: N/A

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Letitia Louise Wellington

Pro Se

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CONT... Letitia Louise Wellington

Chapter 7

Defendant(s):

Letitia Louise Wellington	Pro Se
Amos Q. Wellington	Pro Se
Jonathan Wellington	Pro Se
Michael Wellington	Pro Se

Plaintiff(s):

Wesley H Avery	Represented By Brett B Curlee
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Trustee(s):

Wesley H Avery (TR)	Represented By Brett B Curlee
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2:17-23651 Letitia Louise Wellington

Chapter 7

#7.00 Cont'd hrg re: Motion for Substantive Consolidation of the Estate of the Debtor and Nondebtor Spouse Amos Q. Wellington fr. 6/12/18, 07/17/18, 10/16/18, 03/12/19, 4/9/19, 05/21/19, 7/9/19, 10/1/19, 2/4/20, 4/7/20, 7/14/20, 09/01/20, 12/08/20, 2/9/21

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CONT... Letitia Louise Wellington

Chapter 7

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CONT... Letitia Louise Wellington

Chapter 7

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CONT... Letitia Louise Wellington

Chapter 7

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CONT... Letitia Louise Wellington

Chapter 7

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CONT... Letitia Louise Wellington

Chapter 7

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CONT... Letitia Louise Wellington

Chapter 7

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CONT... Letitia Louise Wellington

Chapter 7

fr. 10/6/20
fr. 2/8/21

Docket 43

Tentative Ruling:

Tentative Ruling for 3/9/21:
Appearances required.

There is no tentative ruling, but the parties should be prepared to address the status of discovery relating to the motion for substantive consolidation, and whether the parties intend to file supplemental pleadings (see stipulation by the parties, dkt.209, and order thereon, dkt.212).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer

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CONT... Letitia Louise Wellington
permitted.

Chapter 7

Tentative Ruling for 2/4/20:

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

The parties should be prepared to address the discovery, if any, received from Debtor (see dkt. 277). The tentative ruling is to continue this matter to 4/7/20 at 11:00 a.m. at the request of the parties. *Id.*

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

Tentative Ruling for 7/9/19:

Appearances required. There is no tentative ruling, but the parties should be prepared to address whether the sale of the property has closed, in light of this Court's order granting the Chapter 7 Trustee's sale motion (dkt. 161).

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

Tentative Ruling for 5/21/19:

Continue this hearing to 7/9/19 at 11:00 a.m. to complete the sale of the property underlying the parties' disputes (see dkt. 86, 94, 98, 100, 114, 135, 136). Appearances are not required on 5/21/19.

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CONT... Letitia Louise Wellington

Chapter 7

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

Tentative Ruling for 4/9/19:

Continue this hearing to 5/21/19 at 11:00 a.m. to complete the sale of the property underlying the parties' disputes (see dkt. 86, 94, 98, 100, 114, 135, 136). Appearances are not required on 4/9/19.

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

Tentative Ruling for 10/16/18 (same as for 7/17/18):

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

At the 7/17/18 and 6/12/18 hearings, this Court continued the matter for the parties to explore various options. There is no tentative ruling, but the parties should be prepared to inform the Court about the status of this case.

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

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CONT... Letitia Louise Wellington

Chapter 7

Tentative Ruling for 6/12/18:

Appearances required. There is no tentative ruling, but the parties should be prepared to address the issues raised in the papers (dkt. 43, 56, 57).

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

Party Information

Debtor(s):

Letitia Louise Wellington

Pro Se

Movant(s):

Michael D. Madison Sr.

Represented By
Stella A Havkin

Trustee(s):

Wesley H Avery (TR)

Represented By
Brett B Curlee

**United States Bankruptcy Court
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Hearing Room 1545

1:00 PM

2:19-18900 FAME Assistance Corporation, a Non Profit Corp.

Chapter 11

#1.00 Hrg re: Application for Payment of third Interim fees and expenses (11 U.S.C. Section 331) of Steinberg, Nutter & Brent, Law Corporation

Docket 193

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 2, 3/9/21 at 1:00 p.m.).

Party Information

Debtor(s):

FAME Assistance Corporation, a

Represented By
Peter T Steinberg

Movant(s):

FAME Assistance Corporation, a

Represented By
Peter T Steinberg

**United States Bankruptcy Court
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1:00 PM

2:19-18900 FAME Assistance Corporation, a Non Profit Corp.

Chapter 11

#2.00 Cont'd Status Conference re: Chapter 11 Case
fr. 8/20/19, 9/24/19,10/29/19, 11/5/19, 12/17/19,
1/28/20, 03/31/20, 5/5/20, 6/16/20, 7/14/20, 9/15/20,
11/10/20, 12/1/20, 12/8/20, 12/17/20, 1/26/21, 03/02/21

Docket 1

Tentative Ruling:

Tentative Ruling for 3/9/21:

Continue as set forth below. Appearances are not required on 3/9/21.

(1) Current issues

(a) Third Interim Fee Application of Steinberg, Nutter & Brent, Law Corporation (dkt. 193), no opposition is on file

Approve and allow Applicant's fees of \$32,490 and costs of \$176.71 costs, for a total award of \$32,666.71.

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

(b) Motion to dismiss or convert (dkt. 160-61); Opposition (dkt.170-71); Reply (dkt.172-74)

Continue to be concurrent with the continued status conference (see below).

(2) Deadlines/dates. This case was filed on 7/31/19.

(a) Bar date: 10/25/19 (dkt. 24; timely served, dkt. 26). *Exception*: the bar date for creditors Apex/BRG has been extended (see dkt. 78, 138, 156)

(b) Procedures order: dkt. 2 (timely served, dkt.23).

(c) Plan/Disclosure Statement: TBD. See the **revised** "Procedures of Judge Bason" (available at www.cacb.uscourts.gov) (search for "Chapter 11: Plan").

(d) Continued status conference: 5/11/21 at 1:00 p.m., concurrent with other matters. No written status report required.

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CONT... FAME Assistance Corporation, a Non Profit Corp.

Chapter 11

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

FAME Assistance Corporation, a

Represented By
Peter T Steinberg

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1:00 PM

2:19-18900 FAME Assistance Corporation, a Non Profit Corp.

Chapter 11

#2.10 Cont'd hrg re: Motion to Dismiss Or Convert Chapter 11 Case
fr. 12/8/20, 12/17/20, 01/26/21, 3/2/21

Docket 160

Tentative Ruling:

Tentative Ruling for 3/9/21:

Please see the tentative ruling for the status conference (Calendar No. 2,
3/9/21 at 1:00 p.m.).

Party Information

Debtor(s):

FAME Assistance Corporation, a

Represented By
Peter T Steinberg

Movant(s):

Apex Realty, Inc.

Represented By
James R Selth
Crystle Jane Lindsey
David L. Neale
David L. Neale, Esq
Jeffrey S Kwong

BRG Adams, LLC

Represented By
David L. Neale
Jeffrey S Kwong

**United States Bankruptcy Court
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Tuesday, March 9, 2021

Hearing Room 1545

1:00 PM

2:20-20261 Residence Group, Inc.

Chapter 11

#3.00 Cont'd Status Conference re: Chapter 11 Case
fr. 12/22/20, 1/26/21

Docket 22

Tentative Ruling:

Tentative Ruling for 3/9/21:

Continue as set forth below. Appearances are not required on 3/9/21.

(1) Current issues

This Court has no issues to raise *sua sponte* in view of the order granting Debtor's stipulation to dismiss this case, while retaining jurisdiction over certain fee applications (dkt. 47, 49). The tentative ruling is to set a continued status conference to be concurrent with the hearing on those fee applications, as set forth below (see Section (2)(d)).

(2) Deadlines/dates. This case was filed on 11/16/20.

- (a) Bar date: 1/25/21 per General Order 20-01 (70 days after petition date in Subchapter V cases) (DO NOT SERVE any notice: one has already been sent, see dkt.12).
- (b) Procedures order: dkt.24 (timely served, dkt. 35)
- (c) Plan/Disclosure Statement*: n/a
- (d) Continued status conference: 3/23/21 at 1:00 p.m. No written status report required.

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

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov

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1:00 PM

CONT... Residence Group, Inc. Chapter 11

instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULING OMITTED]

Party Information

Debtor(s):

Residence Group, Inc.

Represented By
Michael Jay Berger

Trustee(s):

Moriah Douglas Flahaut (TR)

Pro Se

**United States Bankruptcy Court
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Tuesday, March 9, 2021

Hearing Room 1545

1:00 PM

2:20-20260 33 Quincy Avenue LLC

Chapter 11

#4.00 Cont'd status conference re: Chapter 11 case
fr. 12/1/20, 1/5/21, 1/26/21

Docket 1

Tentative Ruling:

Tentative Ruling for 3/9/21:

Appearances required.

(1) Current issues

(a) Plan of reorganization (dkt. 59, amended by dkt. 61)

The tentative ruling is to continue this matter as set forth below (see Section (2)(d)).

Debtor's Plan contemplates paying creditors from the sale of 33 Quincy Avenue, Long Beach, CA 90803 (dkt. 61, p.1). But Debtor has very limited time in which to close a sale, because this Court has granted relief from the automatic stay to creditor Access Investment, LLC ("Access") (dkt. 55), with the only limitation that Debtor would have until 3/31/21 to close the contemplated sale of the Property as set forth in Debtor's response (dkt. 48) or, if that sale falls through, an equivalent sale to a backup buyer.

There is no tentative ruling, but Debtor should be prepared to provide an update on the status of any sale efforts, and address whether Debtor has obtained consent from Access to an extension of time to close the sale, and/or whether this Court should shorten time for a hearing on any motion to approve a sale of the Property, or for a hearing on confirmation of Debtor's proposed Plan, or for any other appropriate request for relief.

(2) Deadlines/dates. This case was filed on 11/16/20.

(a) Bar date: 1/25/21 per General Order 20-01 (70 days after petition date in Subchapter V cases) (DO NOT SERVE any notice: one has already been sent, see dkt.10).

(b) Procedures order: dkt. 6 (timely served, dkt. 12)

(c) Plan/Disclosure Statement: see above.

(d) Continued status conference: 3/23/21 at 1:00 p.m. No written status report required.

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CONT... 33 Quincy Avenue LLC

Chapter 11

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

33 Quincy Avenue LLC

Represented By
Michael Jay Berger

Trustee(s):

Susan K Seflin (TR)

Pro Se

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Hearing Room 1545

1:00 PM

2:19-20000 9469 BEVERLY CREST LLC

Chapter 11

#5.00 Cont'd Status Conference re: Chapter 11 Case
fr. 9/24/19, 11/5/19, 12/10/19, 1/28/20, 03/31/20,
4/7/20, 6/2/20, 8/4/20, 10/6/20, 12/1/20, 12/22/20,
2/9/21

Docket 1

Tentative Ruling:

Tentative Ruling for 3/9/21:

Continue as set forth below. Appearances are not required on 3/9/21.

(1) Current issues

(a) Future of this case

At the hearing on 12/22/20, Debtor represented that it intended to continue pursuing efforts to sell the property, notwithstanding this Court's entry of an order granting NVSI, Inc. relief from stay (dkt. 149). As of the preparation of this tentative ruling no sale motion is on file, and Debtor's January MOR indicated that a foreclosure sale had been scheduled for 2/24/21 (dkt. 153, p.16, para. ("4")).

This Court is not aware of any additional issues that need to be addressed currently, and in an effort to minimize administrative expenses this Court's tentative ruling is to continue this matter without requiring appearances at this time.

(2) Deadlines/dates. This case was filed on 8/26/19.

(a) Bar date: 11/25/19 (dkt. 29; timely served, dkt. 31).

(b) Procedures order: dkt. 11 (timely served, dkt. 24)

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

(d) Continued status conference: 4/6/21 at 1:00 p.m. (if this case is not dismissed). No written status report required.

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

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

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CONT... 9469 BEVERLY CREST LLC

Chapter 11

required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

9469 BEVERLY CREST LLC

Represented By
John N Tedford IV
George E Schulman

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2:19-21521 Tatung Company of America, Inc.

Chapter 11

#6.00 Status Conference re: Post confirmation
fr. 10/2/19, 10/15/19, 10/29/19, 11/5/19, 12/10/19,
12/17/19, 01/07/20, 1/14/20, 02/18/20, 4/21/20,
6/2/20, 6/16/20, 7/7/20, 8/18/20, 9/1/20, 9/29/20,
10/6/20, 10/27/20, 12/1/20, 12/8/20

Docket 1

***** VACATED *** REASON: final decree and order closing case entered
2/18/21 [dkt. 536]**

Tentative Ruling:

Party Information

Debtor(s):

Tatung Company of America, Inc.

Represented By
Ron Bender
Lindsey L Smith
Juliet Y Oh

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2:19-11809 Schaefer Ambulance Service, Inc

Chapter 11

Adv#: 2:20-01149 The SAS Creditor Trust

#7.00 Cont'd Status Conference re: Complaint for 1) Violation of the Automatic Stay [11 U.S.C. Section 362(a)]; 2) Violation of Pan Injunctions; and 3) Turnover of Property of the Estate [11 U.S.C. Section 542] fr. 9/15/20, 11/10/20, 12/22/20, 1/26/21

Docket 1

***** VACATED *** REASON: Order granting default judgment and Default judgment [dkt 28/29]**

Tentative Ruling:

Party Information

Debtor(s):

Schaefer Ambulance Service, Inc

Represented By
Craig G Margulies
Montserrat Morales

Plaintiff(s):

The SAS Creditor Trust

Represented By
Montserrat Morales

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2:19-11809 Schaefer Ambulance Service, Inc

Chapter 11

#8.00 Cont'd Status Conference re: Post confirmation
fr. 02/28/19, 03/12/19, 03/26/19, 04/09/19, 5/21/19,
05/21/19, 06/04/19, 6/18/19, 7/30/19; 08/06/19,
8/20/19, 9/24/19, 10/15/19, 11/5/19, 12/10/19, 12/17/19,
1/14/20, 1/28/20, 02/18/20, 3/10/20, 03/31/20, 4/21/20,
5/2/20, 7/28/20, 9/29/20\, 11/10/20, 2/9/21

Docket 1

***** VACATED *** REASON: Set for 5/11/21 at 1:00 p.m., as ordered at
the hearing on 2/9/21.**

Tentative Ruling:

Party Information

Debtor(s):

Schaefer Ambulance Service, Inc

Represented By
Craig G Margulies
Monserrat Morales

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2:20-14175 Tea Station Investment Inc.

Chapter 11

#9.00 Cont'd hrg re: Application of debtor and debtor in possession to employ Enenstein Pham & Glass as Special Litigation Counsel fr.1/26/21

Docket 146

***** VACATED *** REASON: Order Granting Application (dkt. 178)**

Tentative Ruling:

Party Information

Debtor(s):

Tea Station Investment Inc.

Represented By
Leslie A Cohen

Movant(s):

Tea Station Investment Inc.

Represented By
Leslie A Cohen
Leslie A Cohen

Trustee(s):

John-Patrick McGinnis Fritz (TR)

Pro Se

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2:20-14175 Tea Station Investment Inc.

Chapter 11

#10.00 Cont'd Status Conference re: Chapter 11 Case
fr. 7/28/20, 9/1/20, 9/15/20, 9/29/20, 12/22/20,
1/26/21

Docket 15

Tentative Ruling:

Tentative Ruling for 3/9/21:

Appearances required.

(1) Current issues

(a) Plan (dkt. 137)

Debtor is directed to provide an update regarding the issues noted in this Court's tentative ruling for 1/26/21 (part "(1)(c)") (reproduced below).

(2) Dates/procedures. This case was filed on 5/4/20 and converted from chapter 7 to chapter 11 on 7/1/20 (dkt.17). The petition was amended to elect Subchapter V on 7/14/20 (dkt.27). On 9/4/20 this Court ordered joint administration with affiliated debtors (dkt.64).

(a) Bar date: (i) Investment 9/9/20 (dkt. 40; timely served, dkt. 43);
Affiliated Debtors 11/10/20.

(b) Procedures order: dkt.18 (timely served, dkt.20) (also timely served in each jointly administered case).

(c) Plan (dkt. 137): see above. See also the **revised** "Procedures of Judge Bason" (available at www.cacb.uscourts.gov) (search for "Chapter 11: Plan").

(d) Continued status conference: 4/27/21 at 1:00 p.m. No written status report required.

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

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CONT... Tea Station Investment Inc.

Chapter 11

appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 1/26/21:

Appearances required by Debtor's counsel.

(1) Current issues

(a) Motions of Baodi Zhou ("Zhou") for relief from automatic stay or dismissal of the Investment case (dkt.49, 50, 59); Debtors' opposition (dkt.62), reply (dkt.68)

At the 12/22/20 hearing, this Court continued the hearing to address the possibility of a "comfort order" explaining that the automatic stay is inapplicable as to Debtors' principal. The Court also gave Debtors an opportunity to submit a supplemental opposition. As of the preparation of this tentative ruling, no such supplemental opposition appears on the docket.

The tentative ruling is to grant Movant Zhou's request to clarify that the automatic stay is inapplicable to the non-debtor defendants in the nonbankruptcy action. But the tentative ruling is to deny any other relief from the automatic stay and to deny Zhou's request to dismiss this bankruptcy case, all without prejudice to renewing such requests if Debtors fail to make sufficient progress in this case, or for other cause.

(b) Debtors' Application to Employ Enenstein Pham & Glass as Special Litigation Counsel (dkt. 146); objection by United States Trustee ("UST") (dkt. 148), and withdrawal thereof (dkt.163)

Although the UST's objection has been withdrawn based on Debtors' communications with the UST, those communications are not in the record and the issues raised by the UST are of concern to this Court. Debtor is directed to address those concerns at the hearing. If they are addressed to the satisfaction of this Court, the tentative ruling is to grant the application subject to the standard terms in the posted "Procedures of Judge Bason" (available at www.cacb.uscourts.gov).

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CONT...

Tea Station Investment Inc.

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Proposed orders: Debtor is directed to lodge proposed orders on each of the foregoing motions via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(c) Plan (dkt. 137)

Debtors' status report (dkt. 158) alludes to some concerns raised by the Subchapter V Trustee and possible amendments to the proposed Plan. Debtor is directed to address the current status of negotiations. The tentative ruling, if Debtors assert, and this Court is persuaded, that the Plan quickly can be made ready to be mailed to all creditors as part of a voting package, is to set a **deadline of 2/2/21** for Debtor to file a "blacklined" version of the Plan showing any changes, and lodge a proposed order substantially in the form posted on Judge Bason's portion of this Court's website (www.cacb.uscourts.gov), setting a confirmation hearing concurrent with the continued Status Conference set forth below.

(2) Deadlines/dates. This case was filed on 5/4/20 and converted from chapter 7 to chapter 11 on 7/1/20 (dkt.17). The petition was amended to elect Subchapter V on 7/14/20 (dkt.27). On 9/4/20 this Court ordered joint administration with affiliated debtors (dkt.64).

(a) Bar date: (i) Investment 9/9/20 (dkt. 40; timely served, dkt. 43);
Affiliated Debtors 11/10/20.

(b) Procedures order: dkt.18 (timely served, dkt.20) (also timely served in each jointly administered case).

(c) Plan (dkt. 137)*: see above.

(d) Continued status conference: 3/9/21 at 1:00 p.m. No written status report required.

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

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

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COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Tea Station Investment Inc.

Represented By
Leslie A Cohen

Movant(s):

Tea Station Investment Inc.

Represented By
Leslie A Cohen
Leslie A Cohen

Trustee(s):

John-Patrick McGinnis Fritz (TR)

Pro Se

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2:00 PM

2:17-23866 Felisa Dee Richards

Chapter 13

Adv#: 2:20-01665 Richards v. Ajax Mortgage Loan Trust 2018-G, Mortgage-Backed S

#1.00 Cont'd status conference re: Adversary Complaint
fr. 1/26/21

Docket 1

***** VACATED *** REASON: Dismissed. See adv. dkt. 17.**

Tentative Ruling:

Party Information

Debtor(s):

Felisa Dee Richards

Represented By
William D Bowen

Defendant(s):

Ajax Mortgage Loan Trust 2018-G,

Pro Se

Plaintiff(s):

Felisa Dee Richards

Represented By
William D Bowen

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:20-18465 Jeremy Daniel Kintner

Chapter 13

Adv#: 2:20-01656 Kintner v. State of California Department of Tax and Fee Admi

#2.00 Cont'd hrg re: Motion to Dismiss Adversary Proceeding to Redetermine Purported Tax Liability, to Recover Overpaid Amounts, and to Determine Dischargeability of any Amount Otherwise Due
1/26/21

Docket 4

Tentative Ruling:

Tentative Ruling for 3/9/21:

Please see the tentative ruling for the status conference (Calendar No. 3, 3/9/21 at 2:00 p.m.).

Tentative Ruling for 1/26/21:

Please see the tentative ruling for the status conference (Calendar No. 2.10, 1/26/21 at 2:00 p.m.).

Party Information

Debtor(s):

Jeremy Daniel Kintner

Represented By
David S Hagen

Defendant(s):

State of California Department of

Represented By
Laura E Robbins

Plaintiff(s):

Jeremy Daniel Kintner

Represented By
Mark Bernsley

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:20-18465 Jeremy Daniel Kintner

Chapter 13

Adv#: 2:20-01656 Kintner v. State of California Department of Tax and Fee Admi

#3.00 Cont'd Status Conference re: Complaint to Redetermine Purported Tax Liability, to Recover Overpaid Amounts, and to Determine Dischargeability of Any Amount Otherwise Due fr. 1/12/21, 1/26/21

Docket 1

Tentative Ruling:

Tentative Ruling for 3/9/21:

Continue to 3/23/21 at 2:00 p.m. Appearances are not required on 3/9/21.

(A) Current issues

(1) Background

Plaintiff/Debtor's complaint (adv. no. 2:20-ap-01656-NB, dkt.1) seeks:

(a) tax adjudication: an order or judgment under 11 U.S.C. 505 disallowing the \$71,521.41 claim no.3 of Defendant (a California tax authority) as "invalid and unconstitutional" or, in the alternative,

(b) discharge: a determination under 11 U.S.C. 1328 that the claim is dischargeable. See *id.*, p.6 (prayer for relief).

Defendant's tax claim apparently is founded on a sales tax assessment made under Cal. Code. Regs. tit. 18, §1702.6, which provides for personal liability of corporate officers and stockholders in certain circumstances.

(2) Defendant's Motion to Dismiss ("MTD," adv. dkt. 4),

Plaintiff/Debtor's Opposition (adv. dkt. 7), Defendant's Reply (adv. dkt. 8, 9), Defendant's Supplemental Brief (adv. dkt. 12), Plaintiff/Debtor's Supplemental Opposition (adv. dkt. 15), Defendant's Supplemental Reply (adv. dkt. 16).

At the 1/26/21 hearing, this Court continued this hearing and directed the parties to submit their supplemental briefing on the distinction between a facial challenge and an as-applied challenge to the constitutionality of a state regulation. This Court has reviewed the supplemental papers.

Plaintiff/Debtor requests that this Court not permit further oral argument on this matter. See Plaintiff/Debtor's Opposition to the Supplemental Brief (adv. dkt. 15), p. 7:24–28. For the reasons set forth

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below, this Court does not anticipate that further oral arguments are necessary at this time.

In its supplemental briefing, Defendant makes six arguments that this Court lacks jurisdiction and/or should, in its discretion, decline to exercise jurisdiction. This will Court address each of these arguments in turn.

(a) Mr. Kintner Purportedly Received an Adjudication of Tax Due During Pre-Bankruptcy Proceedings

Defendant reiterates the arguments made in its initial motion to dismiss that Plaintiff/Debtor's disputed tax was adjudicated during the pre-bankruptcy proceedings. As this Court stated in its written tentative ruling for the 1/26/21 hearing, Plaintiff/Debtor's challenge was not adjudicated because none of the prior proceedings reached the merits of Plaintiff/Debtor's challenge to Regulation § 1702.6.

The Ninth Circuit has ruled that the contested and adjudicated requirements for the exception under § 505(a)(2)(A) are intended to protect a debtor from being bound by a "pre-bankruptcy tax liability determination that, because of a lack of financial resources, he or she was unable to contest." *In re Mantz*, 343 F.3d 1207, 1211 (9th Cir. 2003). The California constitution's "pay-first" provision requires that any taxpayer that intended to challenge a tax assessed against them must, at a minimum, have the financial resources to pay the tax.

If this Court were to adopt Defendant's interpretation, a debtor without the means to pre-pay and contest a tax would be barred from contesting the tax in precisely the circumstance that section 505 was intended to address. Defendant's argument on this issue is not persuasive.

(b) This Court Purportedly Lacks Jurisdiction to Decide a Facial Challenge to the Validity of a State Tax Regulation

Defendant argues that this Court lacks jurisdiction to determine the constitutionality of Regulation § 1702.6 because Plaintiff/Debtor does not challenge the adjudication of the tax, but actually challenges the constitutionality of the regulation by seeking declaratory relief, and such an action for declaratory relief must be brought pursuant to state law. How does that deprive this Court of jurisdiction?

Section 505 gives this Court jurisdiction to "determine the amount or *legality* of any tax." § 505(a)(1) (emphasis added). Virtually all adversary

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proceedings before a bankruptcy court under § 505 will seek declaratory relief establishing the amount of a tax or whether the tax was legally assessed. Moreover, Defendant cites no authority for its proposition that this Court has no jurisdiction because Plaintiff/Debtor has asserted a facial challenge to the regulation.

(c) The CDTFA has Found No Authority Holding that Section 505 Confers Jurisdiction over the *Constitutional* Grounds of a Tax

Defendant argues that there is no authority conferring jurisdiction to this Court under § 505 because the challenge is on constitutional grounds. But, to the contrary, the CDTFA has not cited any authority that, just because Plaintiff/Debtor's challenge to the legality of the tax is on constitutional grounds, this Court lacks jurisdiction under § 505.

Section 505 permits this Court to "determine the amount or *legality of any tax . . . whether or not paid.*" § 505(a)(1) (emphasis added). Section 505 does not limit this Court's jurisdictions to non-constitutional legal challenges to a tax. In fact, section 505 (a)(2) sets forth specific limitations on the bankruptcy courts' jurisdiction to determine the amount or legality of a tax, and none of the exceptions refers to constitutional challenges.

(d) The Purported Lack of Discharge Grounds

Defendant reiterates its argument made in its initial motion that Plaintiff/Debtor has failed to state a claim for dischargeability. Construing the Complaint in the light most favorable to Plaintiff/Debtor, he is seeking a declaratory judgment, before committing to devoting all of his disposable income for five years, that such lengthy commitment will not be in vain. Indeed, it would make little practical sense for Plaintiff/Debtor to commit to a five year plan when there is no chance of him obtaining a discharge, despite his complying with the plan. Defendant has not shown how there is anything wrong with that approach.

(e) The CDTFA has Moved to Dismiss Plaintiff/Debtor's Chapter 13 Case

Defendant argues that it has filed a motion to dismiss Plaintiff/Debtor's chapter 13 case and that the dismissal of the bankruptcy case would deprive this Court of jurisdiction under § 505. The tentative ruling is that this is Defendant's only persuasive argument in favor of dismissal.

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Jeremy Daniel Kintner

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If Plaintiff/Debtor's chapter 13 case is dismissed, it appears that this Court would have no jurisdiction over this case pursuant to 28 U.S.C. § 1334. Accordingly, the tentative ruling is to continue this hearing to the date and time set forth above, concurrent with this Court's hearing on Defendant's motion to dismiss Plaintiff/Debtor's chapter 13 case.

(f) Defendant's Abstention Argument

Defendant argues that even if this Court determines it has jurisdiction, it should decline to exercise its discretion because the review of a state regulation is not a core matter. This argument is unpersuasive for two alternative reasons.

First, this is a core matter. It arises under section 505 of the Code (and, to the extent dischargeability issues are involved, section 1328 of the Code). Those are unambiguously core proceedings. See 28 U.S.C. § 157(b)(2)(B), (I).

Second, there is no non-bankruptcy proceeding to which this Court can abstain. If Debtor truly is unable to comply with the "pay-first" requirement, he cannot obtain an adjudication of his claims outside of a bankruptcy case. If he were to return to the nonbankruptcy CDTFA forum or the State Courts, he would be barred. So abstention would be a fiction: any "abstention" would be denial of any relief.

(g) Conclusion as to Defendant's MTD

If Debtor truly is unable to satisfy California's pay-first requirement, then his claims appear to be precisely what section 505 was intended to address. This Court presumably will address that issue at the hearing on Defendant's motion to dismiss Debtor's bankruptcy case. Therefore the tentative ruling is to continue this hearing to be concurrent with the hearing on that motion.

(B) Standard requirements

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority

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Jeremy Daniel Kintner

Chapter 13

[Previously addressed - see prior tentative ruling, reproduced below.]

(2) Mediation

[Intentionally omitted.]

(3) Deadlines

This adversary proceeding has been pending since 11/9/20. Pursuant to LBR 9021-1(b)(1)(B), Plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Joinder of parties/amendment of pleadings-deadline: TBD

Discovery cutoff (for completion of discovery): TBD

Expert(s) - deadline for reports: TBD

Expert(s) - discovery cutoff (if different from above): TBD

Dispositive motions to be heard no later than: TBD

Joint Status Report: N/A

Continued status conference: 3/23/21 at 2:00 p.m.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers, including direct testimony by declaration unless excused: TBD

Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

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Appearances required.

Chapter 13

(A) Current issues

(1) Background

Plaintiff/Debtor's complaint (adv. no. 2:20-ap-01656-NB, dkt.1) seeks:

(a) tax adjudication: an order or judgment under 11 U.S.C. 505 disallowing the \$71,521.41 claim no.3 of Defendant (a California tax authority) as "invalid and unconstitutional" or, in the alternative,

(b) discharge: a determination under 11 U.S.C. 1328 that the claim is dischargeable. *See id.*, p.6 (prayer for relief).

Defendant's tax claim apparently is founded on a sales tax assessment made under Cal. Code. Regs. tit. 18, §1702.6, which provides for personal liability of corporate officers and stockholders in certain circumstances.

(2) Defendant's Motion to Dismiss (dkt. 4), Plaintiff's Opposition (dkt. 7) and Defendant's Reply (dkt. 8, 9).

Defendant moves to dismiss Plaintiff's claim under 11 U.S.C. 505, asserting that this Bankruptcy Court lacks jurisdiction to hear the proceeding pursuant to 11 U.S.C. § 505(a)(2)(A). In the alternative Defendant asserts that if this Bankruptcy Court rules that it does have jurisdiction, then based on discretionary abstention and comity this claim should not be heard. The tentative ruling is to DENY the request to dismiss the Plaintiff's claim under 11 U.S.C. 505 for the reasons stated below.

Defendant also moved to dismiss Plaintiff/Debtor's claim under 11 U.S.C. 1328. The tentative ruling is to DENY that request as well, for the reasons stated below.

The tentative ruling is that much of Defendant's objection (adv.dkt.9) to Plaintiff/Debtor's request for judicial notice ("RJN," adv.dkt.7) is well taken. But the tentative ruling is that this makes no difference to the outcome of the MTD.

(a) 11 U.S.C. § 505(a)(2)(A) does not Deprive this Bankruptcy Court of Jurisdiction, nor has Defendant established that dismissal is appropriate as a matter of discretionary abstention, comity, or other principles

Under 11 U.S.C. § 505(a)(2)(A) a bankruptcy court may not determine the legality of a tax if the legality of the tax previously was contested before and adjudicated by a judicial or administrative tribunal. 11 U.S.C. § 505(a)(2)

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(A) is a statutory embodiment of the principles of *res judicata*. See *Cent. Valley Agric. Enters. v. United States*, 531 F.3d 750, 755 (9th Cir. 2008). Plaintiff argues that *res judicata* cannot apply here because none of the prior proceedings addressed the merits of Plaintiff's challenge to the legality of the tax assessment.

On the one hand, Defendant points out that this adversary proceeding is the latest among numerous administrative hearings and State Court cases for much of the past a decade in which Plaintiff/Debtor challenged his tax liability, including raising the same challenges he now makes. It is certainly frustrating to have such long-running litigation.

On the other hand, the tentative ruling is that Plaintiff/Debtor is correct that none of these proceedings resulted in a final adjudication on the merits of his current claims - in fact, the administrative tribunals and the State Court expressly declined to reach those merits, at the request of Defendant (or its predecessor agency). The hearing panels convened by the administrative agency refused to question the legality of its own regulation, and the State Courts dismissed Plaintiff/Debtor's cases as they were barred by the requirement that Plaintiff/Debtor "pay first" and then sue for a refund, under Article XIII, Section 32 of the California Constitution. Adv.dkt. 4-1, PDF pp. 57-58. Without a final adjudication there is no *res judicata*, and the exception in 11 U.S.C. 505(a)(2)(A) does not apply.

True, Article XIII, Section 32 of the California Constitution normally would bars Plaintiff/Debtor's complaint because it requires that challenged tax assessments must be paid and can only be challenged via a postpayment refund action. But bankruptcy courts are vested with the authority to decide tax issues pursuant to 11 U.S.C. § 505, without requiring debtors to pay the tax liability first.

The policy behind this statutory scheme is to "protect[] a debtor from being bound by a pre-bankruptcy tax liability determination that, because of a lack of financial resources, he or she was unable to contest." *In re Mantz*, 343 F.3d 1207, 1211 (9th Cir. 2003) (emphasis added). See also *Cent. Valley AG Enter. v. U.S.*, 531 F.3d 750, 755 (quoting and following *Mantz*).

As for principles of comity, Plaintiff/Debtor has cited authority that California itself would not apply *res judicata* to bar his claims. Nor does it appear that discretionary abstention is appropriate when the claims that Plaintiff/Debtor now seeks to assert have never been addressed, because of the "pay first" requirement.

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

Tuesday, March 9, 2021

Hearing Room 1545

2:00 PM

CONT...

Jeremy Daniel Kintner

Chapter 13

True, Defendant asserts that Plaintiff/Debtor has resources that he has not disclosed, and that perhaps, unlike a typical debtor in bankruptcy, other creditors would not be harmed by enforcing the "pay first" requirement, and there would be no unfairness to Plaintiff/Debtor. But the tentative ruling is that (i) such evidentiary issues cannot be adjudicated in the context of a motion to dismiss; (ii) there is insufficient evidence presented; (iii) there are other remedies, such as dismissal of Plaintiff/Debtor's bankruptcy case, and possibly the imposition of a bar under 11 U.S.C. 109(g)(1), if it turns out that he is omitting assets or otherwise misusing the bankruptcy system; and (iv) any such considerations of the facts of this particular case do not bear on the interpretation of 11 U.S.C. 505.

For all of the foregoing reasons, the tentative ruling is that this Court has jurisdiction to hear this case, because none of the prior proceedings concluded with an "adjudication" as set forth in 11 U.S.C. § 505(a)(2)(A). Nor, in this motion to dismiss context, is this Bankruptcy Court persuaded that principles of comity or discretionary abstention prevent the consideration of Plaintiff/Debtor's claims under the "pay first" rule. Conceivably, if the record is further developed, such issues could be revisited in a motion to abstain or some other motion or proceeding, but that is not the subject of today's hearing and this Bankruptcy Court expresses no view on these issues.

(b) Dischargeability

Defendant asserts that a discharge is only granted upon completion of payments under 11 U.S.C. 1328, and no plan has yet been confirmed, so Plaintiff/Debtor fails to state a claim on which relief can be granted. But, construing the Complaint in the light most favorable to Plaintiff/Debtor (as this Bankruptcy Court must in the MTD context), he is seeking a declaratory judgment, before committing to devoting all of his disposable income for five years, that such commitment will not be in vain.

The tentative ruling is that this is a proper use of a complaint for declaratory relief. Defendant has not cited any contrary authority.

(3) Future proceedings

The parties should be prepared to address anticipated future proceedings, and whether this Court should set deadlines or procedures. As a starting point, Plaintiff/Debtor is directed to clarify his theory of this adversary proceeding.

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, March 9, 2021

Hearing Room 1545

2:00 PM

CONT...

Jeremy Daniel Kintner

Chapter 13

He acknowledges that Cal. Rev. & Tax. Code § 6829 provides for liability for corporate officers "or other person having control or supervision of, or who is charged with the responsibility for the filing of returns or the payment of tax," for unremitted sales and use taxes upon the "termination, dissolution or abandonment of the business of a corporation." See RJN (adv.dkt.7) Ex.5 at PDF p.55 (emphasis added), *and see also id.* at 162:21-25. His theory appears to be that Defendant (or its predecessor agency) acted beyond its authority when it promulgated a regulation (Cal. Code. Regs. tit. 18 §1702.6, RJN (adv.dkt.7) Ex.9 at PDF pp.85-87) interpreting the "termination" or "abandonment" of a "business" to include periods when the corporation was suspended and thus prohibited by law from conducting any business. Complaint (adv.dkt.1), pp. 3:16–19, 4:1–5. Plaintiff/Debtor is directed to clarify whether that is his theory.

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

(B) Standard requirements

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority

The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this Bankruptcy Court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. See generally *Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct.

**United States Bankruptcy Court
Central District of California
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Tuesday, March 9, 2021

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2:00 PM

CONT... **Jeremy Daniel Kintner**

Chapter 13

2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). *See generally In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation
[Intentionally omitted.]

(3) Deadlines

This adversary proceeding has been pending since 11/9/20. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Joinder of parties/amendment of pleadings-deadline: TBD

Discovery cutoff (for completion of discovery): TBD

Expert(s) - deadline for reports: TBD

Expert(s) - discovery cutoff (if different from above): TBD

Dispositive motions to be heard no later than: TBD

Joint Status Report: 2/16/21

Continued status conference: 3/2/21 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers, including direct testimony by declaration unless excused: TBD

Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the

**United States Bankruptcy Court
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Tuesday, March 9, 2021

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2:00 PM

CONT... **Jeremy Daniel Kintner**

Chapter 13

first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 1/12/21:

Continue to 1/26/21 at 2:00 p.m. to be held contemporaneously with the hearing on the defendant's motion to dismiss (dkt. 4). Appearances are not required on 1/12/21.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Jeremy Daniel Kintner

Represented By
David S Hagen

Defendant(s):

State of California Department of

Pro Se

Plaintiff(s):

Jeremy Daniel Kintner

Represented By
Mark Bernsley

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Tuesday, March 9, 2021

Hearing Room 1545

2:00 PM

CONT... Jeremy Daniel Kintner

Chapter 13

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

Thursday, March 11, 2021

Hearing Room 1545

9:00 AM

2:00-00000

Chapter

#0.00 ZoomGov Instructions for all matters on today's calendar:

Meeting ID: 160 401 5245

Password: 436988

Meeting URL: <https://cacb.zoomgov.com/j/1604015245>

Telephone: +1 669 254 5252 or +1 646 828 7666 or 833 568 8864 (Toll Free)

Please connect at least 5 minutes before the start of your hearing, and wait with your microphone muted until your matter is called. You do not need to call Chambers for advance approval. ZoomGov appearances are free.

Docket 0

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

Thursday, March 11, 2021

Hearing Room 1545

10:00 AM

2:20-18224 Araceli Rodriguez

Chapter 7

**#1.00 Hrg re: Reaffirmation Agreement
[Nissan Motor Acceptance Corporation]**

Docket 14

Party Information

Debtor(s):

Araceli Rodriguez

Represented By
Omar Zambrano

Trustee(s):

John J Menchaca (TR)

Pro Se

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

Thursday, March 11, 2021

Hearing Room 1545

10:00 AM

2:20-19492 Meliton Panganiban De Lios

Chapter 7

**#2.00 Hrg re: Reaffirmation Agreement
[American Honda Finance Corporation]**

Docket 9

Party Information

Debtor(s):

Meliton Panganiban De Lios

Represented By
Diane Butler

Trustee(s):

Heide Kurtz (TR)

Pro Se

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

Thursday, March 11, 2021

Hearing Room 1545

10:00 AM

2:20-19957 Roxana Juarez Garcia

Chapter 7

#3.00 Hrg re: Reaffirmation Agreement
[Capital One Auto Finance, a division of Capital One, N.A.]

Docket 10

Party Information

Debtor(s):

Roxana Juarez Garcia

Represented By
Peter M Lively

Trustee(s):

Edward M Wolkowitz (TR)

Pro Se

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

Thursday, March 11, 2021

Hearing Room 1545

10:00 AM

2:20-20030 Mohammed June

Chapter 7

**#4.00 Hrg re: Reaffirmation Agreement
[SchoolsFirst Federal Credit Union]**

Docket 14

Party Information

Debtor(s):

Mohammed June

Pro Se

Trustee(s):

Wesley H Avery (TR)

Pro Se

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

Thursday, March 11, 2021

Hearing Room 1545

10:00 AM

2:20-20147 Alfredo Montoya-Canales and Nilcia Yanet Mendoza

Chapter 7

#5.00 Cont'd hrg re: Reaffirmation Agreement
[Capital One Auto Finance, a division of Capital One, N.A.]
fr. 2/4/21

Docket 13

Party Information

Debtor(s):

Alfredo Montoya-Canales

Represented By
Cynthia Grande

Joint Debtor(s):

Nilcia Yanet Mendoza

Represented By
Cynthia Grande

Trustee(s):

Rosendo Gonzalez (TR)

Pro Se

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

Thursday, March 11, 2021

Hearing Room 1545

10:00 AM

2:20-20301 Marlene Rivera

Chapter 7

**#6.00 Hrg re: Reaffirmation Agreement
[California Credit Union]**

Docket 12

Party Information

Debtor(s):

Marlene Rivera

Pro Se

Trustee(s):

Heide Kurtz (TR)

Pro Se

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

Thursday, March 11, 2021

Hearing Room 1545

10:00 AM

2:20-20334 Elvin Antonio Garcia Cruz and Quelyn Isayda Oportade

Chapter 7

**#7.00 Hrg re: Reaffirmation agreement
[Toyota Motor Credit Corporation]**

Docket 14

Party Information

Debtor(s):

Elvin Antonio Garcia Cruz

Represented By
Raymond Perez

Joint Debtor(s):

Quelyn Isayda Oportade Garcia

Represented By
Raymond Perez

Trustee(s):

Brad D Krasnoff (TR)

Pro Se

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

Thursday, March 11, 2021

Hearing Room 1545

10:00 AM

2:20-20353 Brittny Shanae Simien and Andre Damon Simien

Chapter 7

**#8.00 Hrg re: Reaffirmation Agreement
[Exeter Finance LLC]**

Docket 12

Party Information

Debtor(s):

Brittny Shanae Simien	Pro Se
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Joint Debtor(s):

Andre Damon Simien	Pro Se
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Trustee(s):

Heide Kurtz (TR)	Pro Se
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**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, March 11, 2021

Hearing Room 1545

10:00 AM

2:20-20705 Alberto Sanchez Hernandez

Chapter 7

#9.00 Hrg re: Reaffirmation Agreement
[Ford Motor Credit Company]
(2017 Ford Escape)

Docket 17

Party Information

Debtor(s):

Alberto Sanchez Hernandez

Represented By
Sevag Nigoghosian

Trustee(s):

Wesley H Avery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Thursday, March 11, 2021

Hearing Room 1545

10:00 AM

2:20-20705 Alberto Sanchez Hernandez

Chapter 7

#10.00 Hrg re: Reaffirmation Agreement
[Ford Motor Credit Company LLC]
(2020 Ford F150)

Docket 19

Party Information

Debtor(s):

Alberto Sanchez Hernandez

Represented By
Sevag Nigoghosian

Trustee(s):

Wesley H Avery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Thursday, March 11, 2021

Hearing Room 1545

10:00 AM

2:20-20935 Ashley R. Ventura

Chapter 7

#11.00 Hrg re: Reaffirmation Agreement
[Capital One Auto Finance,
a division of Capital One]

Docket 10

Party Information

Debtor(s):

Ashley R. Ventura

Represented By
R Grace Rodriguez

Trustee(s):

Peter J Mastan (TR)

Pro Se

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

Thursday, March 11, 2021

Hearing Room 1545

10:00 AM

2:20-21098 Griselda Ruiz

Chapter 7

#12.00 Hrg re: Reaffirmation Agreement
[Regional Acceptance Corporation]

Docket 10

Party Information

Debtor(s):

Griselda Ruiz

Represented By
Gregory Grigoryants

Trustee(s):

Wesley H Avery (TR)

Pro Se

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

Thursday, March 11, 2021

Hearing Room 1545

10:00 AM

2:20-21130 Alexander Anthony Ruiz and Trini Soto Hue

Chapter 7

**#13.00 Hrg re: Reaffirmation Agreement
[Golden 1 Credit Union]**

Docket 10

Party Information

Debtor(s):

Alexander Anthony Ruiz

Represented By
Omar Zambrano

Joint Debtor(s):

Trini Soto Hue

Represented By
Omar Zambrano

Trustee(s):

Jason M Rund (TR)

Pro Se

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

Thursday, March 11, 2021

Hearing Room 1545

10:00 AM

2:20-21160 Xavier Cruz Marroquin

Chapter 7

#14.00 Hrg re: Reaffirmation agreement
[Toyota Motor Credit Corporation]

Docket 9

Party Information

Debtor(s):

Xavier Cruz Marroquin

Represented By
Philomena N Nzegge

Trustee(s):

Timothy Yoo (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Thursday, March 11, 2021

Hearing Room 1545

10:00 AM

2:20-21190 Munkhtsogt Shagdarsuren

Chapter 7

**#15.00 Hrg re: Reaffirmation Agreement
[Ally Bank]**

Docket 10

Party Information

Debtor(s):

Munkhtsogt Shagdarsuren

Represented By
Elena Steers

Trustee(s):

Carolyn A Dye (TR)

Pro Se

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

Thursday, March 11, 2021

Hearing Room 1545

10:00 AM

2:21-10098 Javier J Camacho and Maria Isabel Hernandez

Chapter 7

#16.00 Hrg re: Reaffirmation Agreement
[Capital One Auto Finance, a division
of Capital One, N.A.]

Docket 12

Party Information

Debtor(s):

Javier J Camacho

Represented By
Keith A Higginbotham

Joint Debtor(s):

Maria Isabel Hernandez

Represented By
Keith A Higginbotham

Trustee(s):

Peter J Mastan (TR)

Pro Se

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

Thursday, March 18, 2021

Hearing Room 1545

8:00 AM
2:00-00000

Chapter

#0.00 ZoomGov Instructions for all matters on today's calendar:

Meeting ID: 160 127 7645
Password: 759151
Meeting URL: <https://cacb.zoomgov.com/j/1601277645>
Telephone: +1 669 254 5252 or +1 646 828 7666 or 833 568 8864 (Toll Free)

Please connect at least 5 minutes before the start of your hearing, and wait with your microphone muted until your matter is called. You do not need to call Chambers for advance approval. ZoomGov appearances are free.

Docket 0

Tentative Ruling:

- NONE LISTED -

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Thursday, March 18, 2021

Hearing Room 1545

8:30 AM

2:10-27279 Miguel R Ramos and Sandra Elizabeth Ramos

Chapter 13

#1.00 Hrg re: Motion to Avoid Junior Lien on Principal Residence
[11 U.S.C. Section 506(d)]

Docket 96

Tentative Ruling:

Appearances are not required.
Grant.

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

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Miguel R Ramos

Represented By
Michael V Jehdian
Leon D Bayer

Joint Debtor(s):

Sandra Elizabeth Ramos

Represented By
Michael V Jehdian
Leon D Bayer

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Thursday, March 18, 2021

Hearing Room 1545

8:30 AM

CONT... Miguel R Ramos and Sandra Elizabeth Ramos

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Thursday, March 18, 2021

Hearing Room 1545

8:30 AM

2:17-24008 Roxyana Marie Vivero

Chapter 13

#2.00 Hrg re: Motion under Local Bankruptcy Rule 3015-1 (n)
and (w) to modify plan or suspend plan payments

Docket 57

***** VACATED *** REASON: Resolved by dkt. 66 and order thereon**

Tentative Ruling:

Party Information

Debtor(s):

Roxyana Marie Vivero

Represented By
Arsen Pogosov

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Thursday, March 18, 2021

Hearing Room 1545

8:30 AM

2:17-19762 Robert E Read

Chapter 13

#3.00 Hrg re: Motion to Dismiss Case for Failure
to Pay Post-Confirmation Taxes

Docket 110

Tentative Ruling:

Continue to 4/22/21 at 8:30 a.m. to allow Debtor a brief opportunity to explore potential options to address the outstanding postpetition taxes. That continuance should not be misconstrued as any authorization to continue non-payment of taxes. Appearances are not required on 3/18/21.

Key documents reviewed (in addition to motion papers): Debtor's opposition (dkt. 114), reply of United States on behalf of Internal Revenue Service (dkt. 115).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Robert E Read

Represented By
Donna R Dishbak

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Thursday, March 18, 2021

Hearing Room 1545

8:30 AM

CONT... Robert E Read

Chapter 13

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

Thursday, March 18, 2021

Hearing Room 1545

8:30 AM

2:20-18465 Jeremy Daniel Kintner

Chapter 13

#4.00 Hrg re: Motion to Dismiss with a Bar to Refiling

Docket 41

Tentative Ruling:

Grant as set forth below. Appearances are not required.

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

The tentative ruling is to grant the motion for the reasons set forth in the motion (dkt. 41) and reply (dkt. 46) of the California Department of Tax and Fee Administration (the "Tax Authority"), except for the assertion that "[a] bankruptcy filing by a solvent debtor is improper." Motion (dkt.41), p.2:21 (citations omitted).

Most importantly, and without limiting the considerations stated in the Tax Authority's papers:

- (1) Debtor has failed to establish that he is unable to meet the "pay first" requirement of California law;
- (2) Debtor has failed to establish that he has any other purpose in filing this bankruptcy case except to evade the "pay first" requirement; and
- (3) his proposed chapter 13 plan fails to include either a "pay first" provision or - supposing for the sake of discussion that Debtor were unable to pay his tax debts up front - a provision for a disputed claims reserve that would include
 - (a) as much as he can afford to pay up front and
 - (b) payment of the remainder out of his disposable income (and, if that were insufficient, perhaps Debtor would need to explore whether he could make such payments in a chapter 11 case, so that his bankruptcy petition would not be simply a method of evading California's pay first rule).

Based on these issues, and the other facts and circumstances, the Tax

**United States Bankruptcy Court
Central District of California
Los Angeles
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Thursday, March 18, 2021

Hearing Room 1545

8:30 AM

CONT... **Jeremy Daniel Kintner**

Chapter 13

Authority has established sufficient "cause" for dismissal within the meaning of 11 U.S.C. 1307(c) (listing analogous examples of "cause" for dismissal). See *also* 11 U.S.C. 102(3) ("including" is "not limiting").

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Jeremy Daniel Kintner

Represented By
David S Hagen

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Thursday, March 18, 2021

Hearing Room 1545

8:30 AM

2:19-17796 William Smith, Jr.

Chapter 13

#5.00 Hrg re: Objection to Claim Number 9 by Claimant Deutsche Bank National Trust Company, et al. c/o Select Portfolio Servicing, Inc., its Successors and/or Assigns

Docket 107

***** VACATED *** REASON: Withdrawn [dkt #117]**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

William Smith Jr.

Represented By
Kevin T Simon

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Thursday, March 18, 2021

Hearing Room 1545

8:30 AM

2:20-18003 Yolanda Espinosa

Chapter 13

#6.00 Cont'd hrg re: Objection to Proof of Claim #8
Filed by Bank of America, N.A.
fr. 1/21/21

Docket 23

*** VACATED *** REASON: Stipulation (dkt. 35) and order thereon

Tentative Ruling:

Party Information

Debtor(s):

Yolanda Espinosa

Represented By
Barry E Borowitz

Movant(s):

Yolanda Espinosa

Represented By
Barry E Borowitz

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Thursday, March 18, 2021

Hearing Room 1545

8:30 AM

2:20-18427 Bedros Missak Yazijian

Chapter 13

#7.00 Cont'd hrg re: Objection to Proof of Claim Filed by Susan Go,
Successor Trustee of the Edmond B. Nebhan Revocable
Trust Dated August 27, 2014 Claim #7
fr. 1/21/21

Docket 26

***** VACATED *** REASON: Continued per stipulation (dkt.54) and
order thereon**

Tentative Ruling:

Party Information

Debtor(s):

Bedros Missak Yazijian

Represented By
Roland H Kedikian

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Thursday, March 18, 2021

Hearing Room 1545

8:30 AM

2:20-15577 Bela Janos Cseh

Chapter 13

#8.00 Cont'd hrg re: Objection to Claim Number 1 by Claimant Deutsche Bank National Trust Company, as Trustee for Morgan Stanley Dean Witter Capital I Inc. Trust 2002-AM3 Mortgage Pass-Through Certificates, Series 2002-AM3 fr. 11/19/20, 1/21/21

Docket 31

Tentative Ruling:

Tentative Ruling for 3/18/21:

Continue to 4/22/21 at 8:30 a.m. in view of the parties' settlement reported by the mediator (dkt. 42). The continuance is intended to provide the parties time to do whatever is needed to implement that settlement (*e.g.*, documenting their settlement, filing any amended proof of claim, and/or filing and serving any motion to approve a compromise, if one were to be required under Rule 9019, Fed. R. Bankr. P. - this Court expresses no view which of these acts, if any, might be required). Appearances are not required on 3/18/21.

Note: This Court anticipates that the continued hearing might well go off calendar if whatever the parties do moots this claim objection (or if Debtor files a withdrawal of this claim objection).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

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

Thursday, March 18, 2021

Hearing Room 1545

8:30 AM

CONT... Bela Janos Cseh

Chapter 13

Party Information

Debtor(s):

Bela Janos Cseh

Represented By
Donna R Dishbak

Movant(s):

Bela Janos Cseh

Represented By
Donna R Dishbak
Donna R Dishbak

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Thursday, March 18, 2021

Hearing Room 1545

8:30 AM

2:20-16719 Diana Mitra Saidian

Chapter 13

#9.00 Cont'd hrg re: Objection to Claim No. 5-2 Filed by
Investment Management Company LLC
fr. 11/19/20, 12/17/20, 1/21/21

Docket 53

Tentative Ruling:

Tentative Ruling for 3/18/21:
Appearances required.

This Court has ordered the parties to mediation (dkt.96). The parties are directed to address how long a continuance of this hearing this Court should order.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Diana Mitra Saidian

Represented By
Raymond H. Aver

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

Thursday, March 18, 2021

Hearing Room 1545

8:30 AM

CONT... Diana Mitra Saidian

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Represented By
Fari B Nejadpour

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

Thursday, March 18, 2021

Hearing Room 1545

8:30 AM

2:16-10308 Ramona Ann Brown

Chapter 13

#10.00 Cont'd hrg re: Motion under Local Bankruptcy Rule 3015-1
(n) and (w) to modify plan or suspend plan payments
fr. 2/18/21

Docket 89

Tentative Ruling:

Tentative Ruling for 3/18/21:

Appearances required.

Based on the arguments and representations of the Trustee on 2/18/21, this Court continued the matter to allow time for the Trustee to review Debtor's gambling records. There is no tentative ruling, but the parties should be prepared to provide an update on the status of that review, and address the merits of the motion.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 2/18/21:

Appearances required. Debtor is directed to address the issues raised by the Chapter 13 Trustee (dkt. 95) and whether Debtor's response (dkt. 103) sufficiently addresses the Trustee's concerns.

On the one hand, Debtor's age, retirement status, extremely modest budget, and increases in monthly mortgage payments all favor some leeway

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Thursday, March 18, 2021

Hearing Room 1545

8:30 AM

CONT... **Ramona Ann Brown**

Chapter 13

in permitting Debtor's proposed modification of her confirmed chapter 13 plan. On the other hand, this Court is concerned that Debtor's math (and her allegations) do not entirely "add up."

In particular, although Debtor asserts (a) that she spends a "de minimis" amount on gambling and (b) that the \$61,675.00 of winnings and \$52,631.00 of losses on her tax returns are gross amounts that do not accurately reflect the netting of wins and losses, nevertheless (i) the net appears to be approximately \$9,000 of winnings (\$61,675.00 - \$52,631.00 = \$9,044.00) that were not used to pay creditors; and (ii) she admits (dkt.103, para.7) to visiting a casino "about 5 times" in 2019, and "load[ing] up the card" with approximately \$300 or \$400 each time (although there is some ambiguity about whether sometimes those dollar amounts are reduced by carrying over alleged winnings from prior gambling), which would appear to mean an admission that she spent approximately \$1,500 to \$2,000 on gambling instead of paying her creditors. In addition, Debtor appears to be asserting that she generally wins (to the extent she is asserting that her winnings are carried over), and yet her own evidence (dkt.103, Ex.C) is that the casino has the edge and gamblers generally lose. In addition, this Court is concerned that Debtor's extremely modest budget (dkt.103, Ex.B) does not appear to reflect any ability to use \$300 or \$400 on each visit to a casino, even supposing significant "belt tightening" by Debtor. All of this calls into question whether Debtor is hiding other sources of income, and/or otherwise being less than truthful.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

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

Thursday, March 18, 2021

Hearing Room 1545

8:30 AM

CONT... Ramona Ann Brown

Chapter 13

Debtor(s):

Ramona Ann Brown

Represented By
Kevin T Simon

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Thursday, March 18, 2021

Hearing Room 1545

8:30 AM

2:17-22364 Algerita Wynn

Chapter 13

#11.00 Cont'd hrg re: Motion under Local Bankruptcy Rule 3015-1 (n) and (w) to modify plan or suspend plan payments fr. 2/18/21

Docket 76

Tentative Ruling:

Tentative Ruling for 3/18/21:

Appearances required.

Based on the arguments and representations of the Trustee on 2/18/21, this Court continued this matter to this date. There is no tentative ruling, but the parties should be prepared to provide an update on the status of this matter.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative ruling for 2/18/21 (posted 2/17/21 at 1:15 p.m.):

Appearances required, absent either (1) an agreement with the Chapter 13 Trustee's office to further continue this matter or (2) withdrawal of the motion by Debtor. There is no tentative ruling, but the parties should be prepared to address the issues raised by the Chapter 13 Trustee (dkt. 78).

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

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

Thursday, March 18, 2021

Hearing Room 1545

8:30 AM

CONT...

Algerita Wynn

Chapter 13

required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Algerita Wynn

Represented By
Devin Sawdayi

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Thursday, March 18, 2021

Hearing Room 1545

8:30 AM

2:18-10553 Pamela Williams

Chapter 13

#12.00 Cont'd hrg re: Motion under Local Bankruptcy Rule 3015-1
(n) and (w) to modify plan or suspend plan payments
fr. 2/18/21

Docket 34

***** VACATED *** REASON: Order approving motion signed on 2/25/21
[dkt. 42]**

Tentative Ruling:

Party Information

Debtor(s):

Pamela Williams

Represented By
David Samuel Shevitz

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Thursday, March 18, 2021

Hearing Room 1545

8:30 AM

2:17-14960 Shirley Swayne

Chapter 13

#13.00 Cont'd hrg re: Motion under Local Bankruptcy Rule 3015-1 (n) and (w) to modify plan or suspend plan payments fr. 12/17/20, 2/18/21

Docket 57

Tentative Ruling:

Tentative Ruling for 3/18/21:

Appearances required.

Based on the arguments and representations of the Trustee on 2/18/21, this Court continued the matter to this date. The Trustee should be prepared to provide an update on the status of this case.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 2/18/21:

Appearances required.

Based on the arguments and representations of the parties on 12/17/20, this Court continued the matter to this date. The parties should be prepared to address whether the issues raised by the Chapter 13 Trustee (dkt. 59) have been resolved.

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

Thursday, March 18, 2021

Hearing Room 1545

8:30 AM

CONT... Shirley Swayne

Chapter 13

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 12/17/20:

Appearances required, absent either (1) an agreement with the Chapter 13 Trustee's office to further continue this matter or (2) withdrawal of the motion by Debtor. There is no tentative ruling, but the parties should be prepared to address the issues raised by the Chapter 13 Trustee (dkt. 59).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Shirley Swayne

Represented By
Tina H Trinh

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

Thursday, March 18, 2021

Hearing Room 1545

8:30 AM

CONT... Shirley Swayne

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Thursday, March 18, 2021

Hearing Room 1545

8:30 AM

2:19-10931 Paulett Jones

Chapter 13

#14.00 Cont'd hrg re: Motion under Local Bankruptcy Rule 3015-1 (n) and (w) to modify plan or suspend plan payments fr. 12/17/20, 2/18/21

Docket 45

Tentative Ruling:

Tentative Ruling for 3/18/21:
Appearances required.

At the hearing on 2/18/21, this Court was persuaded to continue the matter to this date so that Debtor could file an amended motion, which she has now done (dkt.58). Debtor previously sought 6 months of suspension and extension, and now she seeks 9 months (although, confusingly, her amended motion states that the last proposed payment would be only 36 months after the initial payment, which this Court presumes is a typographical error).

There is no tentative ruling, but the parties should be prepared to address whether the issues raised by the Chapter 13 Trustee (dkt. 48) have been resolved.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

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

Thursday, March 18, 2021

Hearing Room 1545

8:30 AM

CONT... Paulett Jones

Chapter 13

Party Information

Debtor(s):

Paulett Jones

Represented By
R Grace Rodriguez

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Thursday, March 18, 2021

Hearing Room 1545

8:30 AM

2:19-13395 Tausha Suzette Petrotta

Chapter 13

#15.00 Cont'd hrg re: Objection to Claim Number 10 by Claimant The Bank of New York, as Trustee for the Certificateholders of CWALT, Inc. Alternative Loan Trust 2005-27, Mortgage Pass-Through Certificates Series 2005-27 fr. 07/23/20, 9/24/20, 10/22/20, 12/17/20, 2/18/21

Docket 43

*** VACATED *** REASON: Voluntary Dismissal of Motion Filed on 03/15/2021 (dkt. 82)

Tentative Ruling:

Party Information

Debtor(s):

Tausha Suzette Petrotta

Represented By
Donna R Dishbak

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Thursday, March 18, 2021

Hearing Room 1545

8:30 AM

2:20-17820 Carey Marie Sutton and Thomas Grant Sutton

Chapter 13

#16.00 Case Dismissed on 03/04/2021

Cont'd hrg re: Objection to Claim Number 6 by Claimant IRS
fr. 1/21/21, 2/18/21

Docket 37

*** VACATED *** REASON: Withdrawn [dkt 48]

Tentative Ruling:

Party Information

Debtor(s):

Carey Marie Sutton

Represented By
Marc A Goldbach

Joint Debtor(s):

Thomas Grant Sutton

Represented By
Marc A Goldbach

Movant(s):

Carey Marie Sutton

Represented By
Marc A Goldbach
Marc A Goldbach
Marc A Goldbach
Marc A Goldbach
Marc A Goldbach

Thomas Grant Sutton

Represented By
Marc A Goldbach
Marc A Goldbach
Marc A Goldbach

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Thursday, March 18, 2021

Hearing Room 1545

8:30 AM

2:20-18844 Graciela Gomez

Chapter 13

#17.00 Cont'd hrg re: Amended Motion in Individual Case
for Order Authorizing Use of Cash Collateral
fr. 12/17/20, 2/18/21

Docket 32

Tentative Ruling:

Tentative Ruling for 3/18/21:

Appearances required.

Based on the arguments and representations of the parties on 2/18/21, this Court continued the matter for Debtor to pursue a refinance of the property. There is no tentative ruling, but the parties should be prepared to provide an update on the status of any refinance.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 2/18/21:

Appearances required.

Based on the arguments and representations of the parties on 12/17/20, this Court continued the matter to this date to allow time for them to negotiate the terms of a cash collateral stipulation. But after the hearing Debtor filed a motion to refinance the subject property and pay off First Commerce, LLC's

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Thursday, March 18, 2021

Hearing Room 1545

8:30 AM

CONT... Graciela Gomez

Chapter 13

lien in full, which this Court granted. See dkt. 36, 39. There is no tentative ruling. The parties should be prepared to address (1) whether the refinance transaction did or did not close; (2) whether, if the refinancing did close, there is a need for retroactive approval of Debtor's use of First Commerce, LLC's cash collateral prior to its payoff or whether that issue is now moot; and (3) whether there is a need for this Court to authorize prospective use of the new lender's cash collateral.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 12/17/20:
Appearances required.

There is no tentative ruling. The parties should be prepared to address the issues raised in the motion papers (dkt. 32) and the opposition papers (dkt.34).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Thursday, March 18, 2021

Hearing Room 1545

8:30 AM

CONT... Graciela Gomez

Chapter 13

first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Graciela Gomez

Represented By
Christine A Kingston

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Thursday, March 18, 2021

Hearing Room 1545

8:30 AM

2:20-20239 Portia D. Austin

Chapter 13

#18.00 Cont'd hrg re: Motion to Avoid Lien Junior Lien on
Principal Residence with Argent Mortgage Company
fr. 12/17/20, 2/18/21

Docket 14

Tentative Ruling:

Tentative Ruling for 3/18/21:
Appearances required.

At the 2/18/21 hearing, this Court was persuaded to continue the matter to this date to allow the parties to resolve the motion via stipulation and a loan modification. As of the date this tentative ruling was prepared, no stipulation or accompanying loan modification has been filed with the Court. There is no tentative ruling, but the parties should be prepared to address the status of the loan modification discussed at the 2/18/21 hearing.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Portia D. Austin

Represented By

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

Thursday, March 18, 2021

Hearing Room 1545

8:30 AM

CONT... Portia D. Austin

David Samuel Shevitz

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Thursday, March 18, 2021

Hearing Room 1545

9:30 AM

2:00-00000

Chapter

**#1.00 PLEASE BE ADVISED THAT THE CHAPTER 13 9:30 AM
CONFIRMATION CALENDAR CAN BE VIEWED ON THE
COURT'S WEBSITE (www.cacb.uscourts.gov) UNDER:
JUDGES>BASON, N.>CHAPTER 13>CONFIRMATION HEARINGS CALENDAR**

Docket 0

Tentative Ruling:

- NONE LISTED -

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

Thursday, March 18, 2021

Hearing Room 1545

11:00 AM
2:00-00000

Chapter

**#1.00 PLEASE BE ADVISED THAT THE CHAPTER 13 HEARINGS
at 11:00 AM CAN BE VIEWED ON THE COURT'S WEBSITE
(www.cacb.uscourts.gov) UNDER: JUDGES>BASON, N.>CHAPTER 13**

Docket 0

Tentative Ruling:

- NONE LISTED -

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

Tuesday, March 23, 2021

Hearing Room 1545

9:00 AM
2:00-00000

Chapter

#0.00 **ZoomGov Instructions for all matters on today's calendar:**

Meeting ID: 161 070 6901

Password: 357363

Meeting URL: <https://cacb.zoomgov.com/j/1610706901>

Telephone: +1 669 254 5252 or +1 646 828 7666 or 833 568 8864 (Toll Free)

Please connect at least 5 minutes before the start of your hearing, and wait with your microphone muted until your matter is called. You do not need to call Chambers for advance approval. ZoomGov appearances are free

Time when these tentative rulings were first posted (for purposes of determining when anyone contesting the tentative ruling must notify other parties of intent to do so, per the "Procedures of Judge Bason," posted at www.cacb.uscourts.gov): 3/22/21 at 10:50 a.m.

The revised tentative rulings were re-posted with revisions (as noted in the tentative rulings) on 3/23/21 at approximately 8:58 a.m. and again at 10:49 a.m.

Docket 0

Tentative Ruling:

- NONE LISTED -

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

Tuesday, March 23, 2021

Hearing Room 1545

10:00 AM

2:18-18571 Henry Gustavo Corletto and Heather Romero Corletto

Chapter 13

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

DEUTSCHE BANK NATIONAL TRUST COMPANY
vs
DEBTOR

Docket 39

*** VACATED *** REASON: APO

Tentative Ruling:

Party Information

Debtor(s):

Henry Gustavo Corletto

Represented By
Michael E Clark
Barry E Borowitz

Joint Debtor(s):

Heather Romero Corletto

Represented By
Michael E Clark
Barry E Borowitz

Movant(s):

Deutsche Bank National Trust

Represented By
Robert P Zahradka

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Tuesday, March 23, 2021

Hearing Room 1545

10:00 AM

2:20-13004 John Aguilar

Chapter 13

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

BROKER SOLUTIONS, INC.
vs
DEBTOR

Docket 41

Tentative Ruling:

Appearances are not required.

Grant as set forth below.

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

Termination

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

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

Effective date of relief

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

Co-debtor stay

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

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

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

Tuesday, March 23, 2021

Hearing Room 1545

10:00 AM

CONT... John Aguilar

Chapter 13

are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

John Aguilar

Represented By
Stephen L Burton

Movant(s):

Broker Solutions, Inc. dba New

Represented By
Christina J Khil

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Tuesday, March 23, 2021

Hearing Room 1545

10:00 AM

2:19-20496 Martha E Rodriguez

Chapter 13

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

U.S. BANK TRUST NATIONAL ASSOC
vs
DETOR

Docket 90

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

Tentative Ruling:

Party Information

Debtor(s):

Martha E Rodriguez

Represented By
Scott Kosner
Tyson Takeuchi

Movant(s):

U.S. Bank Trust National

Represented By
Robert P Zahradka

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Tuesday, March 23, 2021

Hearing Room 1545

10:00 AM

2:19-23111 Nickie N. Lane

Chapter 13

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

AMERICREDIT FINANCIAL SERVICES, INC.
vs
DEBTOR

Docket 36

Tentative Ruling:

Appearances required.

There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 38, and movant's reply, dkt. 39).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Nickie N. Lane

Represented By
Amanda G Billyard

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

Tuesday, March 23, 2021

Hearing Room 1545

10:00 AM

CONT... Nickie N. Lane

Chapter 13

Movant(s):

AmeriCredit Financial Services, Inc.

Represented By
Sheryl K Ith

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Tuesday, March 23, 2021

Hearing Room 1545

10:00 AM

2:19-20999 Francis I Morelos and Jennifer Morelos

Chapter 13

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

WELLS FARGO BANK, N.A.
vs
DEBTOR

Docket 56

Tentative Ruling:

Appearances are not required.

Grant as set forth below.

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

Termination

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

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

Effective date of relief

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

Co-debtor stay

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

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

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

Tuesday, March 23, 2021

Hearing Room 1545

10:00 AM

CONT... Francis I Morelos and Jennifer Morelos Chapter 13

by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Francis I Morelos

Represented By
Bruce A Wilson

Joint Debtor(s):

Jennifer Morelos

Represented By
Bruce A Wilson

Movant(s):

Wells Fargo Bank, N.A. d/b/a Wells

Represented By
Josephine E Salmon

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Tuesday, March 23, 2021

Hearing Room 1545

10:00 AM

2:16-20970 Estelle Marie Harnage

Chapter 13

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

NISSAN MOTOR ACCEPTANCE CORP
vs
DEBTOR

Docket 53

Tentative Ruling:

Appearances are not required.

Grant as set forth below.

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

Termination

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

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

Effective date of relief

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

Co-debtor stay

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

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

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

Tuesday, March 23, 2021

Hearing Room 1545

10:00 AM

CONT... Estelle Marie Harnage

Chapter 13

are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Estelle Marie Harnage

Represented By

Alon Darvish - SUSPENDED BK -

Movant(s):

Nissan Motor Acceptance

Represented By

Kirsten Martinez

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Tuesday, March 23, 2021

Hearing Room 1545

10:00 AM

2:20-15837 Maurilio Tovar

Chapter 13

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

NISSAN MOTOR ACCEPTANCE CORP
vs
DEBTOR

Docket 55

Tentative Ruling:

Appearances are not required.

Grant as set forth below.

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

Termination

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

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

Effective date of relief

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

Co-debtor stay

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

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

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

Tuesday, March 23, 2021

Hearing Room 1545

10:00 AM

CONT... Maurilio Tovar

Chapter 13

are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Maurilio Tovar

Represented By
Jasmine Firooz

Movant(s):

Nissan Motor Acceptance

Represented By
Kirsten Martinez

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Tuesday, March 23, 2021

Hearing Room 1545

10:00 AM

2:16-25325 Karen Deshawn Taylor

Chapter 13

#8.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 5/19/20, 7/14/20, 8/18/20, 10/27/20, 12/8/20,
1/26/21, 3/2/21

U.S. BANK NATIONAL ASSOCIATION
vs
DEBTOR

Docket 78

*** VACATED *** REASON: Withdrawl of Motion Filed 3/8/21 (Dkt 120)

Tentative Ruling:

Party Information

Debtor(s):

Karen Deshawn Taylor

Represented By
Lionel E Giron

Movant(s):

U.S. Bank National Association

Represented By
Matthew R. Clark III
Sean C Ferry
April Harriott
Eric P Enciso

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Tuesday, March 23, 2021

Hearing Room 1545

10:00 AM

2:20-14849 Jewellean Knowles

Chapter 13

#9.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 2/9/21

MISSION HEN LLC
vs
DEBTOR

Docket 41

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

Tentative Ruling:

Party Information

Debtor(s):

Jewellean Knowles

Represented By
Jaime A Cuevas Jr.

Movant(s):

Mission Hen LLC

Represented By
Daniel K Fujimoto
Caren J Castle

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Tuesday, March 23, 2021

Hearing Room 1545

10:00 AM

2:21-11626 Raquel Espericueta

Chapter 13

#10.00 Hrg re: Motion in Individual Case for Order
Imposing a Stay or Continuing the Automatic
Stay as the Court Deems Appropriate

Docket 17

Tentative Ruling:

Grant, subject to the following. Appearance required by Debtor's counsel.

(A) No fees for appearance at hearing

This Court notes that the motion originally was filed on 3/9/21 (dkt. 8) with an incorrect hearing date and time and on shorter notice than permitted by the "Posted Procedures of Judge Bason" (the "Procedures," available at www.cacb.uscourts.gov). This Court further notes that the amended motion (dkt. 17) was also filed on shorter notice than is permitted (3/23/21 - 14 days = 3/9/21 deadline to file motion). Furthermore, the amended motion fails to attach the declaration from Debtor that was attached to the original motion (*compare* dkt. 8, pp.12-13 with dkt. 17).

All of the foregoing issues provide shorter and less adequate notice to creditors, and might result in denial of the motion if any creditor establishes undue prejudice. If Debtor's counsel had not made these errors, this Court would have excused his appearance. Therefore, the tentative ruling is that Counsel is directed not to charge any fees for appearing at this hearing.

(B) Form of order

After the hearing date this Court will prepare an order and the tentative ruling is to include the following language in that order:

The stay of 11 U.S.C. 362(a) applies subject to the following modifications and conditions:

(1) Service and reconsideration. Any party in interest who was not timely served in accordance with FRBP 7004 (incorporated by FRBP 9014(b)) is hereby granted through 14 days after proper service to seek reconsideration, including retroactive relief (under FRBP 9023 and/or 9024). Any such person (a) may set a hearing on 14 days' notice, (b) may appear by telephone (if arrangements

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

Tuesday, March 23, 2021

Hearing Room 1545

10:00 AM

CONT...

Raquel Espericueta

Chapter 13

are made per Judge Bason's posted procedures), and (c) may present all arguments orally at the hearing (*i.e.*, no written argument is required). If written arguments appear necessary then this court will set a briefing schedule at the hearing.

(2) Reasons. (a) It appears appropriate to impose the automatic stay, and to impose it as to all persons rather than just as to selected persons, because one purpose of the automatic stay is to preventing a "race to collect" that could unfairly advantage some creditors at the expense of others. (b) To prevent possible abuse, this Court provides the foregoing simple process for reconsideration.

(3) Very limited ruling. This Court's tentative ruling to grant the foregoing relief is solely for purposes of this motion, and is not intended to have any binding effect with respect to any future assertions by any party in interest regarding the existence or lack of existence of good faith in any other context.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Raquel Espericueta

Represented By
Donald E Iwuchuku

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Tuesday, March 23, 2021

Hearing Room 1545

10:00 AM

CONT... Raquel Espericueta

Chapter 13

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

Tuesday, March 23, 2021

Hearing Room 1545

11:00 AM

2:18-12716 Peta Elizabeth Gorshel

Chapter 7

#1.00 Hrg re: Trustee's Final Report and Account;
Application for Fees and Expenses
[Filed by Ch. 7 Trustee, Carolyn Dye]

Docket 204

Tentative Ruling:

Appearances are not required.

Approve the Trustee's final report and allow the Trustee \$76,200 in fees and \$62.40, for a total of award of \$72,262.40, but authorize payment in the reduced amount of \$65,462.40 as proposed by the Trustee (dkt. 204, 205).

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

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Peta Elizabeth Gorshel

Represented By
David S Hagen
Christian T Kim

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

Tuesday, March 23, 2021

Hearing Room 1545

11:00 AM

CONT... Peta Elizabeth Gorshel

Chapter 7

Trustee(s):

Carolyn A Dye (TR)

Represented By
Christian T Kim
James A Dumas Jr

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

Tuesday, March 23, 2021

Hearing Room 1545

11:00 AM

2:18-12716 Peta Elizabeth Gorshel

Chapter 7

#2.00 Hrg re: Final application for fees and reimbursement of costs of Dumas & Kim, APC counsel for trustee

Docket 192

Tentative Ruling:

Appearances are not required.

Allow and authorize payment to Dumas & Kim, APC of \$34,579 in fees and \$290.07 in expenses, for a total award of \$34,869.07.

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

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Peta Elizabeth Gorshel

Represented By
David S Hagen
Christian T Kim

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

Tuesday, March 23, 2021

Hearing Room 1545

11:00 AM

CONT... Peta Elizabeth Gorshel

Chapter 7

Trustee(s):

Carolyn A Dye (TR)

Represented By
Christian T Kim
James A Dumas Jr

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

Tuesday, March 23, 2021

Hearing Room 1545

11:00 AM

2:18-12716 Peta Elizabeth Gorshel

Chapter 7

#3.00 Hrg re: Third and Final application for compensation and reimbursement of expenses of Michael Jay Berger [Former Counsel to debtor]

Docket 193

Tentative Ruling:

Appearances are not required.

Grant the request of the Law Offices of Michael J. Berger for final approval of fees of \$37,545 and expenses of \$908.39, for a total award of \$38,453.39, including prior interim awards. On the \$12,243.55 unpaid balance of such fees and expenses, authorize payment in the reduced amounts, proposed by the Trustee (dkt. 204, 205), of \$6,103.76 in fees and \$149.36 in expenses for a total payment of \$6,253.12.

Caveat: All of the foregoing is subject to Applicant filing a declaration that complies with LBR 2016-1(a)(1)(J) within 7 days after the hearing date.

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

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

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

Tuesday, March 23, 2021

Hearing Room 1545

11:00 AM

CONT... Peta Elizabeth Gorshel

Chapter 7

Debtor(s):

Peta Elizabeth Gorshel

Represented By
David S Hagen
Christian T Kim

Trustee(s):

Carolyn A Dye (TR)

Represented By
Christian T Kim
James A Dumas Jr

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

Tuesday, March 23, 2021

Hearing Room 1545

11:00 AM

2:18-12716 Peta Elizabeth Gorshel

Chapter 7

#4.00 Hrg re: Application for payment of Final Fees and/or Expenses
[Filed by LEA Accountant, LLP for trustee]

Docket 200

Tentative Ruling:

Appearances are not required.

Allow and authorize payment to LEA Accountancy, LLP of \$18,465 in fees and \$270.90 in expenses, for a total award of \$18,735.90.

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

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Peta Elizabeth Gorshel

Represented By
David S Hagen
Christian T Kim

Trustee(s):

Carolyn A Dye (TR)

Represented By

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

Tuesday, March 23, 2021

Hearing Room 1545

11:00 AM

CONT... Peta Elizabeth Gorshel

Christian T Kim
James A Dumas Jr

Chapter 7

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

Tuesday, March 23, 2021

Hearing Room 1545

11:00 AM

2:18-12716 Peta Elizabeth Gorshel

Chapter 7

#5.00 Hrg re: Application for payment of
final fees and/or expenses
[Filed by Jennifer Min Liu, accountant for debtor]

Docket 194

Tentative Ruling:

Appearances are not required.

Grant the request of Jennifer Min Liu for final approval of \$3,937.50 in fees and, on the unpaid balance of \$1,937.50, authorize payment in the reduced amount proposed by the Trustee (dkt. 204, 205), of \$1,388.34, all subject to Applicant filing a declaration that complies with LBR 2016-1(a)(1)(J) within 7 days after the hearing date.

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

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Peta Elizabeth Gorshel

Represented By
David S Hagen

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

Tuesday, March 23, 2021

Hearing Room 1545

11:00 AM

CONT... Peta Elizabeth Gorshel

Chapter 7

Christian T Kim

Trustee(s):

Carolyn A Dye (TR)

Represented By
Christian T Kim
James A Dumas Jr

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

Tuesday, March 23, 2021

Hearing Room 1545

11:00 AM

2:16-17317 Karen C. Cicero

Chapter 7

#6.00 Hrg re: Motion for Order for Dismissal of Case for Failure to Cooperate

Docket 95

*** VACATED *** REASON: Withdrawn [dkt 101]

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Karen C. Cicero

Represented By
Raymond H. Aver

Trustee(s):

Sam S Leslie (TR)

Pro Se

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

Tuesday, March 23, 2021

Hearing Room 1545

11:00 AM

2:19-12720 Andrea Pompelli Steyn

Chapter 7

#7.00 Hrg re: Chapter 7 Trustee's Motion to Approve Compromise of Controversies with Karl S. Reinecker, an Accountancy Corporation, and Marquee Funding, Inc.; Request for Payment of Contingency Fee

Docket 158

Tentative Ruling:

Appearances are not required.

Grant.

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

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Andrea Pompelli Steyn

Represented By
Benjamin Nachimson

Trustee(s):

Howard M Ehrenberg (TR)

Represented By
Benjamin Nachimson

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

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CONT... Andrea Pompelli Steyn

Chapter 7

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, March 23, 2021

Hearing Room 1545

11:00 AM

2:20-19466 Moises Sanchez Portillo

Chapter 7

Adv#: 2:21-01017 IDT Payment Services, Inc. v. Sanchez Portillo

#8.00 Status conference re: Complaint to determine non-dischargeability of debt [11 U.S.C. section 523(a)(4) and (6)]

Docket 1

Tentative Ruling:

Appearances required.

(A) Current issues

This Court has reviewed the parties' joint status report (adv.dkt. 8) and the other filed documents and records in this adversary proceeding.

(B) Standard requirements

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority

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

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11:00 AM

CONT... **Moises Sanchez Portillo**

Chapter 7

liquidate debt and enter final judgment). *See generally In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation

Is there is any reason why this Court should not order the parties to mediation before one of the volunteer mediators (*not* a Bankruptcy Judge), and meanwhile set the deadlines set forth below? The tentative ruling is to set a **deadline of 4/6/21** for the parties to lodge a proposed mediation order (the parties are directed to use the time between now and that deadline to find a mutually agreeable mediator whose schedule can accommodate the needs of this matter; and if the parties cannot even agree on a mediator they may lodge separate orders and Judge Bason will chose among them, or issue his own order).

(3) Deadlines

This adversary proceeding has been pending since 1/21/21. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Joinder of parties/amendment of pleadings-deadline: 9/14/21

Discovery cutoff (for completion of discovery): 9/28/21

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

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

Dispositive motions to be heard no later than: 11/16/21

Joint Status Report: 6/1/21

Continued status conference: 6/15/21 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers, including direct testimony by declaration unless excused: TBD

Trial commencement: TBD

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

**United States Bankruptcy Court
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11:00 AM

CONT... Moises Sanchez Portillo

Chapter 7

by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Moises Sanchez Portillo

Represented By
Raymond Perez

Defendant(s):

Moises Sanchez Portillo

Pro Se

Plaintiff(s):

IDT Payment Services, Inc.

Represented By
Alan J Watson

Trustee(s):

Heide Kurtz (TR)

Pro Se

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

Tuesday, March 23, 2021

Hearing Room 1545

11:00 AM

2:20-18530 Socorro Evelina Garcia

Chapter 7

Adv#: 2:21-01006 Jarvis v. Garcia et al

#9.00 Status conference re: Removal

Docket 1

Tentative Ruling:

Continue this matter to 4/6/21 at 2:00 p.m. concurrent with the hearing on Debtor's motion to set aside state court default and for violation of the automatic stay (2:20-bk-18530-NB, dkt. 25). Appearances are not required on 3/23/21.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Socorro Evelina Garcia

Represented By
Nathan A Berneman

Defendant(s):

Socorro Garcia

Pro Se

DOES 1 through 20, inclusive

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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11:00 AM

CONT... Socorro Evelina Garcia

Chapter 7

Plaintiff(s):

Jordan Jarvis

Pro Se

Trustee(s):

Elissa Miller (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Tuesday, March 23, 2021

Hearing Room 1545

11:00 AM

2:19-23664 Liat Talasazan

Chapter 7

#10.00 Hrg re: Motion of the United States Trustee for Extension of Deadline Date for Filing a Complaint Objecting to Debtor's Discharge Under 11 U.S.C. § 727

Docket 538

***** VACATED *** REASON: Resolved by the parties' stipulation (dkt. 557) and order thereon**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Liat Talasazan

Represented By
Giovanni Orantes
Luis A Solorzano

Trustee(s):

Caroline Renee Djang (TR)

Represented By
David Wood

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, March 23, 2021

Hearing Room 1545

11:00 AM

2:16-16363 Lake Mathews Mineral Properties, LTD

Chapter 7

Adv#: 2:20-01160 Merritt, an individual v. PECAS LLC, a Delaware Limited Liability

#11.00 Cont'd Status Conference re: Complaint for 1) Declaratory Relief to Quiet Title; 2) Violation of California Business and Professions Code Section 17200 for an Unlawful Business Practice; 3) Actual Fraudulent Transfer fr. 9/29/20

Docket 1

Tentative Ruling:

Continue to 6/15/21 at 11:00 a.m. Appearances are not required on 3/23/21.

The tentative ruling is to continue the hearing to the date and time set forth above during the pendency of Plaintiff's appeal.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Lake Mathews Mineral Properties,

Represented By

Michael Jay Berger

Cassandra J Richey

Shirley Smith - SUSPENDED -

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11:00 AM

CONT... Lake Mathews Mineral Properties, LTD

Chapter 7

Defendant(s):

PECAS LLC, a Delaware Limited Pro Se

Chabad Temple Inc Pro Se

Plaintiff(s):

Paul Merritt, an individual Pro Se

Trustee(s):

Elissa Miller (TR)

Represented By
Franklin C Adams
Juliet Y Oh

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, March 23, 2021

Hearing Room 1545

11:00 AM

2:18-15829 Philip James Layfield
Adv#: 2:20-01688 Avery v. Keough

Chapter 7

#12.00 Cont'd status conference re: Complaint for Judgment: (1) Avoiding Fraudulent Transfer Pursuant to 11 U.S.C. Section 544 and Cal. Civ. Code Section 3439.01; (2) Avoiding Fraudulent Transfer Pursuant to 11 U.S.C. Section 11 U.S.C. Section 544 and Cal. Civ Code Section 3439.01(A)(2); (3) Recovery of Fraudulent Transfer Pursuant to 11 U.S.C. Section 550; (4) Preserving Fraudulent Transfer Pursuant to 11 U.S.C. Section 551; and (5) Accounting and Turnover of Property of the Estate Pursuant to 11 U.S.C. Section 542(a) fr. 3/2/21

Docket 1

*** VACATED *** REASON: Dismissed pursuant to stipulation (adv. dkt. 11, 12).

Tentative Ruling:

Party Information

Debtor(s):

Philip James Layfield

Represented By
Anthony M Solis

Defendant(s):

Jeana Keough

Pro Se

Plaintiff(s):

Wesley H. Avery

Represented By
Jeffrey I Golden

Trustee(s):

Wesley H Avery (TR)

Represented By
Jeffrey I Golden
Faye C Rasch
Beth Gaschen
Ryan W Beall

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, March 23, 2021

Hearing Room 1545

1:00 PM

2:21-11373 All Star Auto Parts, Inc.

Chapter 11

#1.00 Status conference re: Chapter 11 case

Docket 1

***** VACATED *** REASON: Order and notice of dismissal (dkt. 11).**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

All Star Auto Parts, Inc.

Represented By
Kevin Tang

**United States Bankruptcy Court
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Los Angeles
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Tuesday, March 23, 2021

Hearing Room 1545

1:00 PM

2:21-11676 Cynthia C. Rodriguez

Chapter 11

#2.00 Status conference re: Chapter 11 case

Docket 1

Tentative Ruling:

Appearances required by counsel for Debtor and by Debtor herself.

(1) Current issues

(a) Budget motion

Debtor's status report states that a budget motion is not required by the presiding judge's procedures. Dkt. 32, p.3. That is wrong (see posted "Procedures of Judge Bason," available at www.uscourts.gov). The tentative ruling is to set a deadline of **3/30/21** for Debtor to file a budget motion with a hearing concurrent with the continued status conference. Counsel is cautioned not to mis-state the applicable procedures in future.

(b) Gambling

Debtor has a serious gambling problem, according to at least two sources. First, this Court's records (from a hearing on 6/13/19, and associated filed documents in case no. 2:14-bk-20138-NB) indicate that Debtor's previous bankruptcy case was dismissed due to problems caused by Debtor's gambling. Second, in this current case Debtor's Statement Of Financial Affairs ("SOFA") states on line 5 that Debtor has had substantial gross income from gambling in 2019 (\$48,306.00 gross income) and 2020 (\$50,108.00 gross income). See SOFA (dkt.6), p.2. It is unclear what net income (or loss) Debtor has had from gambling, although in her papers filed in her prior case she vaguely asserted that her gross income was artificially inflated by the way that casinos report winnings, and she implied that her net income was small (or perhaps she had a net loss).

Based on the limited information available from Debtor's filed documents, it appears that either (i) she failed to devote her gambling winnings to paying her creditors, or alternatively (ii) she actually suffering losses, which were being funded somehow, and thus she must have been under-reporting her income. In any event, Debtor failed to "do the math" in her prior bankruptcy case to explain her true financial picture.

Is Debtor still gambling? Is she receiving treatment for her apparent

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CONT...

Cynthia C. Rodriguez

Chapter 11

gambling addiction? How can creditors have any assurance that, in this latest bankruptcy case, Debtor either has stopped gambling or is keeping her gambling to a very low amount that is taken out of funds that would not otherwise go to creditors? How can creditors have any assurance that Debtor has been truthful and will in future devote all disposable income to paying her debts? What tangible remedies could be imposed to provide assurances to creditors?

(c) Bankruptcy schedules (dkt.21)

Debtor's Bankruptcy Schedule J (dkt.21 at PFD p.43) does not list any gambling expense. Has Debtor entirely stopped gambling? If she alleges so, how can that be verified?

(d) Attorney fees

Debtor's SOFA states on line 16 that Debtor paid \$-0- to her proposed bankruptcy counsel. See SOFA (dkt. 6), at PDF p.4. That is inconsistent with other filed documents, and not credible; but Debtor signed the SOFA under penalty of perjury. Again, how can creditors rely on anything that Debtor says if she is prepared to sign false documents?

(e) Lawsuit

What is the nature and status of the lawsuit identified in line 9 of the SOFA? Debtor reports that she disputes the allegations and has filed a response. Will Debtor be seeking authorization to hire special counsel?

(2) Dates/procedures. This case was filed on 3/2/21.

(a) Bar date: 6/16/21 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Procedures order: dkt.18 (timely served, dkt.25)

(c) Plan/Disclosure Statement: TBD

(d) Continued status conference: 4/27/21 at 1:00 p.m. No written status report required.

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

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

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CONT...

Cynthia C. Rodriguez

Chapter 11

by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Cynthia C. Rodriguez

Represented By
Mufthiha Sabaratnam

**United States Bankruptcy Court
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Tuesday, March 23, 2021

Hearing Room 1545

1:00 PM

2:21-11720 Jose Angel Rosales

Chapter 11

#3.00 Status conference re: Chapter 11 case

Docket 1

Tentative Ruling:

Appearances required by counsel for Debtor and by Debtor himself.

(1) Current issues

This is Debtor's eighth bankruptcy case since 2000. This latest case is off to a bad start, as detailed below. Debtor is directed to address whether this Court should dismiss this case with a permanent bar against being a debtor in bankruptcy, or impose other relief.

(a) Status report

Debtor has ignored this Court's order to file a status report. See Procedures Order, dkt. 14. If this case is not dismissed, the tentative ruling is to set a **deadline of 3/30/21** to file the required status report and serve it on all creditors.

(b) "First Day" motions

Debtor has failed to file any so-called "first day" motions. For example, (i) although Debtor's prior case (Case No. 2:20-bk-17479-NB) was dismissed on 2/11/21, Debtor has failed to file a motion in this case to continue the automatic stay under 11 U.S.C. 362(c)(3), so it appears that the automatic stay has expired; (ii) Debtor has not filed a budget motion, which is particularly important because in Debtor's prior case there were allegations that Debtor was hiding income; and (iii) Debtor has not filed a payroll motion (which might be needed if his "part time contract laborer" or any other persons are employed/hired by Debtor, as distinguished from being employed by Debtor's business in its ordinary course, see dkt.12, at PDF p.13), etc. The damage from not having filed such motions might be irreparable.

For example, as noted above, the automatic stay appears to have expired, with no opportunity to extend it (per section 362(c)(3)). This means that (x) Debtor and the bankruptcy estate appear to be exposed to the risk that lienholders will foreclose on the principal asset of the estate (Debtor's home), (y) creditors might be free to seek to levy on bank accounts and

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CONT... **Jose Angel Rosales**

Chapter 11

otherwise collect debts, which presumably could interfere with any effort to reorganize, and (z) if creditors are free to pursue their remedies that can be a "race to collect," which is potentially unfair to creditors. For all of these reasons, this Court questions whether this bankruptcy case should be dismissed.

If this case is not dismissed, the tentative ruling is to set a deadline of **3/30/21** to file whatever "first day" motions are appropriate, with a hearing concurrent with the continued status conference. Debtor is directed to address at the hearing what motions are required or appropriate.

(c) Unreported income/expenses

Debtor apparently has income from a property or business but has failed to provide a breakdown of gross receipts, ordinary and necessary business expenses, and calculation of the resulting monthly net income as directed by the form. See dkt. 12 at PDF p.24 (bankruptcy schedule "I" line 8a).

Debtor is reminded that this Court's Procedures Order (dkt.14) requires him to report all income and expenses from his business as if it were a co-debtor in bankruptcy, including on Monthly Operating Reports ("MORs").

If this case is not dismissed, the tentative ruling is to set a **deadline of 3/30/21** for Debtor to file an amended Schedule I with a comprehensive breakdown of gross revenues, expenses, and net income. The tentative ruling is that such a breakdown must be accompanied by Debtor's declaration under penalty of perjury, with copies of receipts and other documentation to establish an accurate picture of Debtor's typical monthly income and expenses.

(2) Dates/procedures. This case was filed on 3/3/21. If this case is not dismissed, the tentative ruling is to set the following dates/deadlines:

(a) Bar date: 6/16/21 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Procedures order: dkt.14 (timely served, dkt.21, amended by dkt. 22)

(c) Plan/Disclosure Statement: TBD

(d) Continued status conference: 4/27/21 at 1:00 p.m.

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

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1:00 PM

CONT... Jose Angel Rosales

Chapter 11

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Jose Angel Rosales

Represented By
Nancy Korompis

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Tuesday, March 23, 2021

Hearing Room 1545

1:00 PM

2:21-11352 Stern Holdings, Inc.

Chapter 11

#4.00 Status conference re: Chapter 11 case

Docket 1

Tentative Ruling:

Appearances required by counsel for Debtor and by Debtor's principal.

(1) Current issues

(a) Untimely Status report

Debtor filed its status report (dkt. 15) four days late, on 3/13/21, without providing any explanation for the late filing. Debtor/counsel are cautioned that failure to timely comply with this Court's orders in future may result in adverse consequences.

(b) First-day motions

Debtor's status report states that a budget motion is not required by the presiding judge's procedures. Dkt. 15, p.3. That is wrong (see posted "Procedures of Judge Bason," available at www.cacb.uscourts.gov), but the tentative ruling is to excuse this requirement with a caution to counsel not to mis-state the applicable procedures.

If Debtor has not filed an employment application or any other typical so-called "first-day" motion(s) by the time of this hearing, the tentative ruling is to set a deadline of **3/30/21** for Debtor to file any outstanding motion(s) with a hearing concurrent with the continued status conference. Debtor is directed to address at the hearing what other motions are required or appropriate.

(c) Monthly Operating Reports ("MORs")

As of the preparation of this tentative ruling, Debtor has not filed its February MOR. Why not?

(d) Only two creditors?

Debtor's creditor matrix includes only two creditors. Is that really true? How about the City of Fontana which, according to Debtor's Status Report (dkt.15), is considering citations for alleged "violations" of some sort? How about former employees, tax authorities, and other typical creditors?

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1:00 PM

CONT... Stern Holdings, Inc.

Chapter 11

- (2) Dates/procedures. This case was filed on 2/19/21.
- (a) Bar date: 5/28/21 (DO NOT SERVE notice yet - court will prepare an order after the status conference).
 - (b) Procedures order: dkt.3 (timely served, dkt.5)
 - (c) Plan/Disclosure Statement: TBD
 - (d) Continued status conference: 4/27/21 at 1:00 p.m. No written status report required.
- *Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Stern Holdings, Inc.

Represented By
Matthew Abbasi

**United States Bankruptcy Court
Central District of California
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Hearing Room 1539

1:00 PM

2:20-20261 Residence Group, Inc.

Chapter 11

#5.00 Hrg re: First And Final Application Of Subchapter V
Trustee For Allowance And Payment Of Fees

Docket 55

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 7,
3/23/21 at 1:00 p.m.).

Party Information

Debtor(s):

Residence Group, Inc.

Represented By
Michael Jay Berger

Trustee(s):

Moriah Douglas Flahaut (TR)

Pro Se

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

Tuesday, March 23, 2021

Hearing Room 1545

1:00 PM

2:20-20261 Residence Group, Inc.

Chapter 11

#6.00 Hrg re: First and Final Application for Compensation
and Reimbursement of Michael Jay Berger

Docket 50

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 7,
3/23/21 at 1:00 p.m.).

Party Information

Debtor(s):

Residence Group, Inc.

Represented By
Michael Jay Berger

Trustee(s):

Moriah Douglas Flahaut (TR)

Pro Se

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

Tuesday, March 23, 2021

Hearing Room 1545

1:00 PM

2:20-20261 Residence Group, Inc.

Chapter 11

#7.00 Cont'd Status Conference re: Chapter 11 Case
fr. 12/22/20, 1/26/21, 3/9/21

Docket 22

Tentative Ruling:

Tentative Ruling for 3/23/21:

Appearances are not required on 3/23/21.

(1) Current issues

(a) Fee application of the Law Offices of Michael J. Berger (dkt. 50-52), no opposition is on file

Allow and approve Applicant's request for \$14,213 in fees and \$235.30 in costs, for a total award of \$14,448.30.

(b) Fee application of Subchapter V Trustee (dkt. 55, 56), no opposition is on file

Allow and approve Applicant's request for \$4,254.50 in fees and \$0 in costs, for a total award of \$4,254.50.

Proposed orders: Applicants are directed to lodge proposed orders on each of the foregoing motions via LOU within 7 days after the hearing date.

(2) Deadlines/dates. This case was filed on 11/16/20 and dismissed on 2/26/21. See dkt. 47, 49.

(a) Bar date: 1/25/21 per General Order 20-01 (70 days after petition date in Subchapter V cases) (DO NOT SERVE any notice: one has already been sent, see dkt.12).

(b) Procedures order: dkt.24 (timely served, dkt. 35)

(c) Plan/Disclosure Statement*: n/a

(d) Continued status conference: Off-calendar

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

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CONT... Residence Group, Inc.

Chapter 11

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULING OMITTED]

Party Information

Debtor(s):

Residence Group, Inc.

Represented By
Michael Jay Berger

Trustee(s):

Moriah Douglas Flahaut (TR)

Pro Se

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

Tuesday, March 23, 2021

Hearing Room 1545

1:00 PM

2:20-12166 Olinda Esperanza Lytle

Chapter 11

#8.00 Hrg re: Motion For Entry of Discharge of Chapter 11 Case Pursuant to 11 U.S.C 1141(D)(5) Upon Completion of Payments to Unsecured Creditors and final decree closing chapter 11 Case

Docket 138

Tentative Ruling:

Please see the tentative ruling for the post-confirmation status conference (Calendar No. 9, 3/23/21 at 1:00 p.m.).

Party Information

Debtor(s):

Olinda Esperanza Lytle

Represented By
Onyinye N Anyama

**United States Bankruptcy Court
Central District of California
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Tuesday, March 23, 2021

Hearing Room 1545

1:00 PM

2:20-12166 Olinda Esperanza Lytle

Chapter 11

#9.00 Cont'd Status Conference re: Post Confirmation
fr. 03/31/20, 4/21/20, 6/2/20, 6/16/20, 6/30/20,
7/28/20, 9/29/20, 11/10/20, 1/12/21, 03/02/21

Docket 1

Tentative Ruling:

Tentative Ruling for 3/23/21:

Appearances are not required on 3/23/21.

(1) Current issues

(a) Debtor's motion for entry of discharge and final decree closing case (dkt. 138), no opposition on file

Grant the motion.

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

(2) Deadlines/dates

This case was filed on 2/26/20, and Debtor's plan was confirmed on 9/29/20 (dkt. 113). *If* this Court is persuaded to authorize entry of Debtor's discharge and an order closing the case, no future status conferences will be set.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer

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CONT... Olinda Esperanza Lytle
permitted.

Chapter 11

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Olinda Esperanza Lytle

Represented By
Onyinye N Anyama

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1575 Calendar**

Tuesday, March 23, 2021

Hearing Room 1575

1:00 PM

2:20-15954 John Martin Kennedy

Chapter 11

#10.00 Hrg re: Objection to Claim Number 2 Filed by Yunuen Campos; and Motion to (1) Determine the Amount of the Claim of Yunuen Campos Pursuant to Bankruptcy Code § 506(a) and FRBP 3012, or (2) in the Alternative Motion to Estimate the Claim of Yunuen Campos

Docket 257

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 11, 3/23/21 at 1:00 p.m.).

Party Information

Debtor(s):

John Martin Kennedy

Represented By
Sandford L. Frey
Dennette A Mulvaney

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

1:00 PM

2:20-15954 John Martin Kennedy

Chapter 11

#11.00 Cont'd Status Conference re: Chapter 11 Case
fr. 7/14/20, 7/28/20, 8/18/20, 9/15/20, 9/29/20,
10/27/20, 11/10/20, 12/1/20, 12/8/20, 12/22/20, 01/26/21

Docket 1

Tentative Ruling:

Tentative Ruling for 3/23/21:

Appearances required.

(1) Current issue: Debtor's objection to Claim 2 filed by Yunuen Campos (dkt. 257), Ms. Campos' opposition (dkt. 261), Debtor's reply (dkt. 266)

The tentative ruling to sustain the claim objection either in full or subject only to relatively simple additional proceedings if required. Capitalized terms have the meaning in the parties papers, unless otherwise defined below.

(a) Section 502(d) does not yet apply, but it will require that Ms. Campos either pay the Fuller Judgments to Debtor or reduce her claim, so in determining what Debtor must pay her, it is appropriate to reduce her claim in the dollar amount of the Fuller Judgments

Section 502(d) provides, in relevant part:

...the court shall disallow any claim of any entity from which property is recoverable under section 542 ...unless such entity or transferee has paid the amount ... for which such entity or transferee is liable under section ...542.... [11 U.S.C. 502(d) (emphasis added)].

Section 542(b) provides that (with inapplicable exceptions), any person that "owes a debt that is property of the estate" and that is payable "shall pay such debt" to the debtor in possession, "except to the extent that such debt may be offset under section 553 of this title against a claim against the debtor." (Emphasis added.) Section 553 permits a creditor to "offset a mutual debt owing by such creditor to the debtor ... against a claim of such creditor against the debtor"

Debtor has acquired rights to the Fuller Judgments against Ms.

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CONT... **John Martin Kennedy**

Chapter 11

Campos. But, as this Court understands the current arrangements between Debtor and Mr. Fuller, those judgments are not yet payable to Debtor. Rather, those judgments will be assigned to Debtor on the Effective Date of Debtor's proposed Plan. See Plan (dkt. 250) (redlined version) at PDF pp.23-24.

Therefore, under the foregoing statutory provisions, section 502(d) is not yet applicable, but if the Plan is confirmed then it will apply. In other words, if the Plan is confirmed and Debtor holds the Fuller Judgments (*i.e.*, as of the Effective Date), Ms. Campos either would have to pay the Fuller Judgments or she would have to exercise her right to setoff with respect to whatever allowed claim she may have against Debtor. If Ms. Campos were to fail to do either of those things, her full claim would be disallowed. So it is appropriate, for purposes of determining the allowed amount of Ms. Campos' claim that will need to be paid if the Plan is confirmed, to reduce that claim by the dollar amount she owes under the Fuller Judgments.

Alternatively, Ms. Campos is not the only party who can elect to apply setoff. Debtor also can do so, because that is a permissible treatment of any claim, and that is what Debtor contemplates for purposes of his proposed Plan. See Claim Obj. (dkt. 257), pp. 9:11-11:1. In other words, this is an alternative reason why, for purposes of the upcoming hearing on whether or not to confirm Debtor's proposed Plan, it is appropriate for Debtor to elect to calculate the dollar amount that would be remaining based on setoff (or payment by Ms. Campos), which is what Debtor has done. See *id.*

Ms. Campos has not established any error in Debtor's calculations. Accordingly, the tentative ruling is to sustain the claim objection and determine that **Ms. Campos has \$751,856.36 claim** for purposes of Debtor's proposed Plan. All of the foregoing is subject to any accounting that might be required with respect to any prepetition setoffs - see part "(1)(d)" of this Tentative Ruling, below.

(b) No adversary proceeding is required

An adversary proceeding would be required if this Court had to determine the "validity, priority, or extent" of any lien or other interest in property of the estate. Rules 3007(b), 7001(1) (Fed. R. Bankr. P.). But the parties do not appear to be actually contesting any such validity, priority, or extent, either as to accounts receivable generated prepetition or any such accounts generated postpetition.

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It is true that Debtor argues (dkt. 257, pp. 18:22-19:3) that his earlier chapter 7 bankruptcy case (Case No. 2:17-bk-15115-ER) has terminated *any interest* Ms. Campos in subsequent accounts. This Court expresses no opinion on that issue. The only point is that, as to prepetition accounts, Debtor is not pressing his argument that Ms. Campos purportedly has no interest in those accounts. To the contrary, Debtor appears to be acceding to Ms. Campos' collection and application of prepetition accounts (apparently so as not to expend time and money on litigating over relatively minor dollar amounts). In any event, whatever Debtor's motivations, there does not appear to be any actual controversy over the validity, priority, or extent of Ms. Campos' asserted interests in prepetition accounts.

As for postpetition accounts, it appears from Ms. Campos' opposition to Debtor's claim objection that she is not pressing her earlier claims to an interest in such accounts. In her Opposition papers, she refers only to an interest in "pre-petition Accounts Receivable," and she does not specifically mention postpetition accounts. Opp., (dkt.261) p.7:1-2 (footnote omitted, emphasis added).

Therefore, it appears that there is no actual controversy as to the "validity, priority, or extent" of any lien or other interest in property (Rule 7001, Fed. R. Bankr. P.), as to either prepetition or postpetition accounts, and no adversary proceeding is required. At the hearing, the parties are directed to confirm whether this is so.

(c) Alternatively, if any adversary proceeding is required, the issues can be addressed quickly in the existing adversary proceeding, without delaying the confirmation hearing

Alternatively, if Ms. Campos wishes to renew her prior assertions that she has either an absolute ownership of Debtor's postpetition accounts, or a security interest in those accounts, it appears that any such assertions can be briefed and argued without undue delay for three reasons. First, those issues have already been discussed on a preliminary basis at prior hearings and briefed in Debtor's claim objection. Second, the parties and this Court can use the current hearing to clarify any remaining issues to be addressed. Third, as discussed below, any litigation over these issues does not need to delay the confirmation hearing.

The tentative ruling, if Ms. Campos wishes to pursue this option, is to modify this Court's prior order staying Ms. Campos' existing adversary

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proceeding (Adv. No. 2:20-ap-01626-NB, adv. dkt. 10) to provide Ms. Campos with an opportunity to file a motion for partial summary judgment or other appropriate papers in that adversary proceeding. In that event, the tentative ruling is to set a **deadline of 4/6/20** for Ms. Campos to file and serve her papers, a **deadline of 4/13/21** for any response by Debtor, a **dealine of 4/20/21** for any reply by Ms. Campos, and a hearing on **4/27/21 at 1:00 p.m.**

In addition, the tentative ruling is that any such proceedings need not delay the confirmation hearing. Debtor's proposed Plan will pay Ms. Campos 100% of her claim (in the reduced dollar amount to which she agreed, which this Court has determined is binding). Debtor's proposed Plan provides that Debtor is not impairing that claim at all, and that "to the extent valid, enforceable and perfected, the Plan leaves unaltered the rights, if any, to which Campos is entitled pursuant to the Campos Assignment Order, all subject to all of Debtor's defenses" Plan (dkt. 251, Ex.1), at PDF p. 43.

In other words, it does not appear to matter, for purposes of the confirmation hearing, whether Ms. Campos' claim is or is not secured: either way, her rights will not be changed by the Plan. Therefore, as a matter of calendar management, the tentative ruling is that any litigation regarding Ms. Campos' alleged security interest need not delay the hearing on whether or not to confirm Debtor's proposed Plan.

(d) Estimation under Section 502(c) is unnecessary, and would make no difference in any event

Under 11 U.S.C. 502(c)(1), "there shall be estimated" any "contingent or unliquidated claim, the fixing or liquidation of which, as the case may be, would unduly delay the administration of the case." The tentative ruling is that no aspect of Ms. Campos' claim falls under this statutory provision because for purposes of determining the dollar amount of Ms. Campos' claim to be paid in Debtor's proposed Plan, there are no remaining "contingent" or "unliquidated" aspects of the claim.

(i) The dollar amount is no longer contingent

As of the petition date the dollar amount of Ms. Campos' claim was contingent: it depended on whether the preconditions to her settlement with Debtor would or would not be satisfied. But that will not be so if Debtor's proposed Plan is confirmed, so for purposes of determining what Debtor must pay under that Plan there is no cognizable contingency.

This Court has already determined that the parties' settlement

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embodied in the Mediation Term Sheet can be enforced, so the starting point for Ms. Campos' claim is the reduced dollar amount under that settlement. Although that issue is on appeal, there is no stay pending appeal.

Ms. Campos appears to argue that this Court must ignore the satisfaction of the contingency that will occur if the Plan is confirmed, because that will occur postpetition. Ms. Campos cites 11 U.S.C. 502(b), under which this Court must determine the dollar amount of her claim "as of the date of the filing of the petition, and ... allow such claim in such amount." See Campos Opp. (dkt. 261), p. 4:15-25 (citations omitted).

The tentative ruling is that Ms. Campos misconstrues the statute. If this Court were to adopt her interpretation that postpetition events are irrelevant then, for example, any creditor who was granted relief from the automatic stay and foreclosed on its collateral would still have a secured claim for the entire dollar amount, because the foreclosure occurred postpetition so it would not be considered.

That is not what the statute requires. Claims must be determined as of the petition date, but postpetition events can affect the dollar amount. Ms. Campos cites no contrary authority on point.

(ii) Any uncertainty from the appeal goes to feasibility, which can be addressed at the confirmation hearing

Of course, even though Ms. Campos has not obtained any stay pending appeal, the outcome of that appeal has the potential to affect the dollar amount of Ms. Campos' claim. This Court recognizes that the risk of reversal could affect the feasibility of Debtor's plan - *i.e.*, whether the possibility of a reversal would render it "likely" that confirmation would be followed by liquidation or the need for further financial reorganization. 11 U.S.C. 1129(a)(10). But that is an issue that can be addressed at any confirmation hearing, so this issue will not "unduly delay the administration of the case." 11 U.S.C. 502(c)(1).

(iii) Alternatively, if estimation were required, the tentative ruling is to estimate Ms. Campos' claim pursuant to the Mediation Term Sheet

Supposing for the sake of discussion that estimation were required (although the tentative ruling is that it is not), Ms. Campos has not established any reason why this Court would apply a different analysis to estimation under section 502(c) from this Court's analysis in prior proceedings holding that the Mediation Term Sheet is enforceable. Accordingly, even if section 502(c) were to apply, the tentative ruling is that the result would be the same.

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For all of the foregoing reasons, the tentative ruling is that nothing in section 502(c) changes this Court's analysis.

(d) Accounting

To the extent there is any issue as to the proper dollar amount of prepetition accounts receivable, that can be resolved by an accounting. See Claim Obj. (dkt. 257), pp. 9:11-11:1 (Debtor has not independently verified Ms. Campos' accounting); Campos Opp. (dkt. 261) p. 7:2-7 (Ms. Campos has not verified Debtor's accounting and suspects that outstanding payments from Medicare have not been accounted for). To the extent that any discovery is required on that issue, the parties are directed to address a schedule for such discovery.

In any event, any such accounting need not delay this Court's consideration of whether to confirm Debtor's proposed plan. It is very common for claim objections to be resolved post-confirmation.

(2) Deadlines/dates. This case was filed on 6/30/20.

(a) Bar date: 10/2/20 (dkt. 39) (timely served, dkt. 52)

(b) Procedures order: dkt.4 (timely served, dkt.18).

(c) Plan (dkt. 250)/Disclosure Statement* (dkt. 230): Confirmation hearing set for 4/6/21 at 1:00 p.m. (dkt. 255)

(d) Continued status conference: 4/6/21 at 1:00 p.m., concurrent with other matters. No written status report required.

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

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer

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CONT... **John Martin Kennedy**
permitted.

Chapter 11

Tentative Ruling for 1/26/21:
Appearances required.

(1) Current issues
(a) [Intentionally omitted]

(b) Campos v. Kennedy (Adv. No. 2:20-ap-01626-NB)

This Court has reviewed the parties joint status report (adv. dkt. 8) and the other filed documents in the adversary proceeding and the bankruptcy case. The tentative ruling is that, purely as a scheduling matter - and without making any binding determinations on the merits of the adversary proceeding - it is appropriate to **stay the adversary proceeding** and move forward with Debtor's attempts to confirm his proposed Plan, including his contemplated motion to disallow Ms. Campos' claimed security interest or ownership interest in Debtor's receivables, because Debtor asserts that his motion and/or confirmation of the Plan would moot the adversary proceeding. If this Court ultimately were to rule against Debtor on these issues, all rights would be preserved to litigate the (not-mooted) adversary proceeding.

This Court's understanding of Debtor's theory is as follows, based largely on the parties' prior oral arguments and the proposed Disclosure Statement, Exhibit "L" (dkt.230 at PDF pp.52-54). If the Mediation Term Sheet is an assumed, binding agreement between Debtor and Ms. Campos then, under Debtor's theory, it would be inconsistent with that agreement to treat Debtor's obligations to Ms. Campos as a secured claim, or to treat 25% of Debtor's earnings (or any other percentage) as belonging to Ms. Campos. In other words, either of those things would be contrary to the carefully negotiated settlement of the parties.

The tentative ruling is that there is enough support for this argument that it makes sense, in the interests of efficiency, to stay the adversary proceeding while Debtor is pursuing this theory. Specifically, this Court takes judicial notice that the Mediation Term Sheet expressly provides for a schedule of payments and states that the obligations shall be nondischargeable, but does not provide for such obligations to be secured by any collateral, or for any of Debtor's future earnings to belong to Ms. Campos. Therefore Debtor has at least a colorable argument that permitting Ms.

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Campos to assert ownership of Debtor's future earnings, or a security interest in those earnings, would be inconsistent with the carefully balanced give-and-take of their settlement, embodied in the Mediation Term Sheet.

True, prior to the petition date, when the parties were disputing whether or not the Mediation Term Sheet was binding and whether either of them breached it, Ms. Campos was free to pursue collection from Dr. Kennedy (Debtor), subject to whatever defenses and counterclaims he had at that time. But now, as this Court understands Debtor's position, under the Supremacy Clause of the United States Constitution and the provisions of the Bankruptcy Code including the automatic stay and the Code's provisions for assumption of executory contracts, Ms. Campos is barred from pursuing collection attempts or asserting any interest in Debtor's postpetition earnings that would be contrary to her agreement embodied in the Mediation Term Sheet.

For all of these reasons, the tentative ruling is to stay all matters in this adversary proceeding until further order of this Bankruptcy Court, and meanwhile proceed with Debtor's attempts to disallow some of Ms. Campos' claim, and his attempt to confirm the proposed Plan. Again, this is purely a scheduling issue, and if Debtor fails in those attempts then all rights are reserved regarding the issues in the adversary proceeding.

The tentative ruling is to set a continued status conference in this adversary proceeding for **4/27/21 at 1:00 p.m.**

[Other sections of this tentative ruling are intentionally omitted]

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

John Martin Kennedy

Represented By
Sandford L. Frey
Dennette A Mulvaney

**United States Bankruptcy Court
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2:20-19443 Joshuaville, LLC

Chapter 11

#12.00 Cont'd status conference re: Chapter 11 case
fr. 11/10/20, 12/22/20, 1/26/21

Docket 1

Tentative Ruling:

Tentative Ruling for 3/23/21:

Continue as set forth below. Appearances are not required on 3/23/21.

(1) Current issues

This Court is not aware of any issues that need to be addressed *sua sponte*.

(2) Deadlines/dates. This case was filed, as a Subchapter V case, on 10/19/20.

(a) Bar date: 12/28/20 per General Order 20-01 (70 days after petition date in Subchapter V cases) (DO NOT SERVE any notice: one has already been sent, see dkt.9).

(b) Procedures order: dkt.4 (timely served, dkt.6).

(c) Plan/Disclosure Statement: file by 3/22/21 (DO NOT SERVE - except on the U.S. Trustee). See the **revised** "Procedures of Judge Bason" (available at www.cacb.uscourts.gov) (search for "Chapter 11: Plan").

(d) Continued status conference: 4/27/21 at 1:00 p.m. No written status report is required.

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

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

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CONT... Joshuaville, LLC

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COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 3/2/21:

Continue as set forth below. Appearances are not required on 3/2/21.

(1) Current issues

(a) Debtor's Motion to Extend Deadline to File a Plan (dkt. 37), Opposition filed by Creditor March 1 and 3 (dkt. 40, 41), Debtor's Reply (dkt. 45).

Grant.

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

(2) Deadlines/dates. This case was filed, as a Subchapter V case, on 10/19/20.

(a) Bar date: 12/28/20 per General Order 20-01 (70 days after petition date in Subchapter V cases) (DO NOT SERVE any notice: one has already been sent, see dkt.9).

(b) Procedures order: dkt.4 (timely served, dkt.6).

(c) Plan/Disclosure Statement: See the **revised** "Procedures of Judge Bason" (available at www.cacb.uscourts.gov) (search for "Chapter 11: Plan").

(d) Continued status conference: 4/6/21 at 1:00 p.m. No written status report is required.

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

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

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CONT... Joshuaville, LLC

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by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 1/26/21:

Continue as set forth below. Appearances are not required on 1/26/21.

(1) Current issues

This Court has no issues to raise sua sponte at this time.

(2) Deadlines/dates. This case was filed, as a Subchapter V case, on 10/19/20.

(a) Bar date: 12/28/20 per General Order 20-01 (70 days after petition date in Subchapter V cases) (DO NOT SERVE any notice: one has already been sent, see dkt.9).

(b) Procedures order: dkt.4 (timely served, dkt.6).

(c) Plan/Disclosure Statement: See the **revised** "Procedures of Judge Bason" (available at www.cacb.uscourts.gov) (search for "Chapter 11: Plan").

Note: Debtor has filed a written motion (dkt. 37) to extend the deadline to file a plan, which is set by statute in this subchapter V case, from 1/19/21 to 3/22/21. The actual deadline will depend on whether that motion is granted.

(d) Continued status conference: 3/23/21 at 1:00 p.m. No written status report is required.

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

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

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CONT... Joshuaville, LLC

Chapter 11

by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 12/22/20:

Continue as set forth below. Appearances are not required on 12/22/20.

(1) Current issues

The issues raised in the tentative ruling for 11/10/20 (reproduced below) have been adequately addressed. This Court is not aware of any remaining issues that would warrant a status conference at this time.

(2) Deadlines/dates. This case was filed, as a Subchapter V case, on 10/19/20.

(a) Bar date: 12/28/20 per General Order 20-01 (70 days after petition date in Subchapter V cases) (DO NOT SERVE any notice: one has already been sent, see dkt.9).

(b) Procedures order: dkt.4 (timely served, dkt.6).

(c) Plan/Disclosure Statement*: File by 1/19/21 using the forms required by Judge Bason or, alternatively, Debtor's own forms (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).

Note: Although Subchapter V contemplates only a Plan, not a Disclosure Statement, the required form Plan has not yet been updated to include the disclosures required by Subchapter V (11 U.S.C. 1190), so if the form Plan is used then Judge Bason requires that the form Disclosure Statement be completed as well. 11 U.S.C. 1181(b).

(d) Continued status conference: 1/26/21 at 1:00 p.m. No written status report is required.

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

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If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 11/10/20:

Appearances required by counsel for the debtor and by Debtor's principal, Wayne Tsang.

(1) Current issues

This Court has reviewed Debtor's status reports (dkt.12, 13) and the other filed documents and records in this case.

(a) Executory contract(s)?

Debtor reports (dkt.12, p.2) that its "sole asset in an income producing contractual interest" and this bankruptcy case was precipitated by arbitration of a contract dispute and "lack of information/income from main asset." This implies that Debtor is a party to a contract that might be executory (although that is not necessarily so). Debtor also reports (dkt.12, p.7) that it has no executory contracts: is that accurate?

(b) Employment application (dkt.16)

In connection with the pending employment application of proposed bankruptcy counsel (dkt.16), Debtor's principal, Mr. Tsang, declares that Alkterra Capital "paid the pre-petition retainer of \$76,717.00" to proposed bankruptcy counsel "as a gift" for which it will not seek reimbursement, and that "[o]ther than shared leadership/ownership, Alkterra Capital has no connections to, or claims against, the Debtor." Dkt.16, p.11:10-13 There is no disclosure about the business form of Alkterra Capital.

Supposing that Alkterra Capital is a corporation or similar type of business subject to the laws of California or similar laws, this Court is

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concerned that investors in Alkterra Capital could in future seek to avoid its gift as a constructively fraudulent transfer, or bring similar claims. That possibility could be used as leverage to influence Mr. Tsang's management of this bankruptcy estate, or otherwise cause potential conflicts of interest.

Have any investors in Alkterra Capital been fully informed as to its gift to Debtor, and have they provided their written consent, and/or whatever else might be required (e.g., a vote)? Does the gift implicate bankruptcy-related concerns in any other ways?

Because it might take time to obtain any responses/authorizations, the tentative ruling is to set the employment application for hearing fairly far in the future, concurrent with the continued status conference (see below). The tentative ruling is not to alter the current deadline for any response to the employment application (14 days after it was filed/served), but to set a supplemental **deadline of 12/8/20** for Debtor to file a declaration or other papers addressing this Court's concerns set forth above, and a **deadline of 12/15/20** for the United States Trustee to file any response it may elect to file on that issue.

(2) Deadlines/dates. This case was filed, as a Subchapter V case, on 10/19/20.

- (a) Bar date: 12/28/20 per General Order 20-01 (70 days after petition date in Subchapter V cases) (DO NOT SERVE any notice: one has already been sent, see dkt.9)
- (b) Procedures order: dkt.4 (timely served, dkt.6).
- (c) Plan/Disclosure Statement*: TBD

Note: Although Subchapter V contemplates only a Plan, not a Disclosure Statement, the required form Plan has not yet been updated to include the disclosures required by Subchapter V (11 U.S.C. 1190), so Judge Bason requires that the form Disclosure Statement be completed as well. 11 U.S.C. 1181(b). Alternatively, as stated in the Procedures Order, Debtor can request to be excused from using the forms.

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

- (d) Continued status conference: 12/22/20 at 1:00 p.m. No written status report required.

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If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, all appearances are telephonic via CourtCall at (888) 882-6878.

Party Information

Debtor(s):

Joshuaville, LLC

Represented By
Leslie A Cohen

Trustee(s):

Moriah Douglas Flahaut (TR)

Pro Se

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2:20-20260 33 Quincy Avenue LLC

Chapter 11

#13.00 Cont'd status conference re: Chapter 11 case
fr. 12/1/20, 1/5/21, 1/26/21, 3/9/21

Docket 1

Tentative Ruling:

Tentative Ruling for 3/23/21:

Continue as set forth below. Appearances are not required on 3/23/21.

(1) Current issues

This Court is not aware of any issues that need to be addressed *sua sponte*.

(2) Deadlines/dates. This case was filed on 11/16/20.

- (a) Bar date: 1/25/21 per General Order 20-01 (70 days after petition date in Subchapter V cases) (DO NOT SERVE any notice: one has already been sent, see dkt.10).
- (b) Procedures order: dkt. 6 (timely served, dkt. 12)
- (c) Plan (dkt.59, Amended dkt.61): The tentative ruling is not to take any action regarding Debtor's proposed Plan at this time, due to the order (dkt. 55) granting Access Investment, LLC ("Access") relief from the automatic stay to foreclose, subject to Debtor having until 3/31/21 to close a sale of the Property (dkt. 48), all of which probably will moot any plan.
- (d) Continued status conference: 4/27/21 at 1:00 p.m. *Brief* status report due 4/13/21.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov

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instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

33 Quincy Avenue LLC

Represented By
Michael Jay Berger

Trustee(s):

Susan K Seflin (TR)

Pro Se

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2:18-22426 Edmond Melamed and Rozita Melamed

Chapter 11

#14.00 Cont'd status conference re: Post Confirmation
fr. 11/27/18, 2/5/19, 2/26/19, 3/26/19, 4/9/19,
04/30/19, 06/04/19; 08/06/19, 9/24/19, 10/29/19,
11/12/19, 12/10/19, 1/28/20, 3/3/20, 5/5/20, 5/12/20,
7/14/20, 10/27/20, 1/26/21

Docket 7

*** VACATED *** REASON: Case closed on interim basis. See dkt. 182.

Tentative Ruling:

Party Information

Debtor(s):

Edmond Melamed

Represented By
Michael Jay Berger

Joint Debtor(s):

Rozita Melamed

Represented By
Michael Jay Berger

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2:19-20273 Alex Christopher Padilla

Chapter 11

#15.00 Cont'd Status Conference re: Post Confirmation
fr. 9/17/19, 10/1/19, 10/29/19, 12/10/19, 12/17/19,
1/28/20, 02/18/20, 3/3/20, 4/7/20, 5/5/20, 5/19/20,
6/30/20, 7/28/20, 9/1/20, 11/3/20, 11/10/20, 12/22/20,
1/26/21

Docket 1

Tentative Ruling:

Tentative Ruling for 3/23/21:

Continue as set forth below. Appearances are not required on 3/23/21.

(1) Current issues

(a) Post-confirmation progress

This Court continued the 1/26/21 post-confirmation status conference to allow the broker for the Honolulu Terrace property an opportunity to market the property. Dkt. 208, p. 3. The tentative ruling is to continue the status conference again, to 6/1/21 at 1:00 p.m., to allow escrow to close on the Honolulu Terrace property pursuant to the debtor's status report. Dkt. 211. No written status report is required prior to the continued status conference.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

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Party Information

Debtor(s):

Alex Christopher Padilla

Represented By
Eric Bensamochan

Trustee(s):

Gregory Kent Jones (TR)

Pro Se

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2:20-14672 Truemetrics

Chapter 11

#16.00 Cont'd hrg re: U.S. Trustee's Motion to Dismiss or Convert Case
fr. 10/27/20, 11/10/20, 12/22/20, 2/9/21

Docket 57

Tentative Ruling:

Tentative Ruling for 3/23/21:

Please see the tentative ruling for the status conference (Calendar No. 18,
3/23/21 at 1:00 p.m.).

Tentative Ruling for 2/9/21:

Please see the tentative ruling for the status conference (Calendar No. 17,
2/9/21 at 1:00 p.m.).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Truemetrics

Represented By
Ryan A. Stubbe

Movant(s):

United States Trustee (LA)

Represented By
Dare Law

Trustee(s):

Gregory Kent Jones (TR)

Pro Se

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2:20-14672 Truemetrics

Chapter 11

#17.00 Combined Hrg re: (A) Final Approval of Disclosure Statement
and (B) Confirmation of Chapter 11 Plan
fr. 11/10/20, 12/22/20, 2/9/21

Docket 54

Tentative Ruling:

Tentative Ruling for 3/23/21:

Please see the tentative ruling for the status conference (Calendar No. 18,
3/23/21 at 1:00 p.m.).

Tentative Ruling for 2/9/21:

Please see the tentative ruling for the status conference (Calendar No. 17,
2/9/21 at 1:00 p.m.).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Truemetrics

Represented By
Ryan A. Stubbe

Trustee(s):

Gregory Kent Jones (TR)

Pro Se

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2:20-14672 Truemetrics

Chapter 11

#18.00 Cont'd Status Conference re: Chapter 11 Case
fr. 6/2/20, 6/30/20, 8/4/20, 8/18/20, 9/15/20,
10/27/20, 11/10/20, 12/22/20, 2/9/21

Docket 1

Tentative Ruling:

Tentative Ruling for 3/23/21:

Continue as set forth below. Appearances are not required on 3/23/21.

(1) Current issues

(a) United States Trustee's motion to dismiss, convert or appoint a chapter 11 trustee (dkt. 58, "MTD"), Debtor's opposition (dkt. 70), UST's reply (dkt. 71), continuing compliance order (dkt. 76)

The tentative ruling is to continue this hearing to be concurrent with the continued status conference (see below, section "(2)(a)").

(b) Amended Disclosure Statement (dkt. 81) and Plan (dkt. 80), JPMC objection (dkt. 82), U.S. Trustee objection (dkt.88), Amended Plan (dkt.89), Amended Disclosure Statement (dkt.90)

Based on the arguments and representations of the parties at the hearing on 12/22/20, this Court was persuaded to continue this matter to this date to see whether Debtor's performance is consistent with its current projections (or not). Debtor's MORs for December 2020 (dkt. 93) and January 2021 (dkt. 94) reflect some improvement in Debtor's financial situation. But Debtor's MOR for February 2021 (dkt. 100) reflects (i) a \$10,000 decrease in cash receipts for the month (*id.* p.2) as compared to the prior month (dkt. 94, p.2), (ii) a reduction in staff (*id.*, p.3, section 5, line items 26 & 27), and (iii) increasing accounts payable (dkt. 100, pdf p.11). However, Debtor represents in its status report (dkt. 101) that it anticipates an increase in future income as a result of new business deals.

The tentative ruling is to further continue this matter to be concurrent with the continued status conference (see below, section "(2)(a)") to allow this Court and other parties in interest to continue to monitor Debtor's performance and see whether Debtor can establish a more reliable and

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consistent record of financial stability.

(2) Deadlines/dates. This case was filed on 5/21/20.

(a) Bar date: 7/30/20 per General Order 20-01 (70 days after petition date in Subchapter V cases) (DO NOT SERVE any notice: one has already been sent, see dkt. 12).

(b) Procedures order: dkt.7 (served one day late, dkt. 14)

(c) PlanDisclosure Statement*: See above.

(d) Continued status conference: 6/1/21 at 1:00 p.m. No written status report required.

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

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 2/9/21:

Continue as set forth below. Appearances are not required on 2/9/21.

(1) Current issues

(a) United States Trustee's motion to dismiss, convert or appoint a chapter 11 trustee (dkt. 58, "MTD"), Debtor's opposition (dkt. 70), UST's reply (dkt. 71), continuing compliance order (dkt. 76)

The tentative ruling is to continue this hearing to be concurrent with the continued status conference (see below, section "(2)(a)").

(b) Prior Disclosure Statement (dkt. 81) and Plan (dkt. 80), JPMC

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Truemetrics

Chapter 11

objection (dkt. 82), U.S. Trustee objection (dkt.88), Amended Plan (dkt.89), Amended Disclosure Statement (dkt.90)

Based on the arguments and representations of the parties at the hearing on 12/22/20, this Court was persuaded to continue this matter to this date to see whether Debtor's performance is consistent with its current projections (or not). This Court has reviewed Debtor's MORs for December 2020 (dkt. 93) and January 2021 (dkt.94), which reflect some improvement in Debtor's financial situation. The tentative ruling is to continue this matter to be concurrent with the continued status conference (see below, section "(2) (a)") to allow this Court and other parties in interest to continue to monitor Debtor's performance.

(2) Deadlines/dates. This case was filed on 5/21/20.

- (a) Bar date: 7/30/20 per General Order 20-01 (70 days after petition date in Subchapter V cases) (DO NOT SERVE any notice: one has already been sent, see dkt. 12).
- (b) Procedures order: dkt.7 (served one day late, dkt. 14)
- (c) PlanDisclosure Statement*: See above.
- (d) Continued status conference: 3/23/21 at 1:00 p.m. No written status report required.

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

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

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Appearances required.

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(1) Current issues

(a) United States Trustee's motion to dismiss, convert or appoint a chapter 11 trustee (dkt. 58, "MTD"), Debtor's opposition (dkt. 70), UST's reply (dkt. 71), continuing compliance order (dkt. 76)

There is no tentative ruling, but the parties should be prepared to address whether Debtor is in full compliance with all of its reporting and disclosure obligations, and has been maintaining regular communications with the Subchapter V Trustee and creditors.

(b) Amended Disclosure Statement (dkt. 81) and Plan (dkt. 80), JPMC objection (dkt. 82), U.S. Trustee objection (dkt.88), Amended Plan (dkt.89), Amended Disclosure Statement (dkt.90)

(i) Agreement(s)?

The parties are directed to address whether the Plan reflects agreements with creditors, and whether it includes all secured and unsecured claims that are allowed, or untimely claims that might (or might not) be allowed. See dkt.82.

(ii) Feasibility?

The good news is that Debtor appears to have corrected its reporting of recent financial history. Compare Disclosure Statement (dkt.90-2), Ex.D (summary of prepetition books & MORs), with U.S. Trustee's Objection (dkt.88), Ex.1 (summary of MORs). In addition, Debtor's historical profit & loss statements (Disclosure Statement, dkt.90-14, Attachment 8) show considerable improvement from the losses in 2018 and 2019 to a modest income in the first part of 2020. The declaration of one of Debtor's principals, Joel Russell (*id.*, dkt.90-15) also appears to show good reasons to anticipate continued improvement. Debtor projects net cash flow (before debt payments) starting at \$6,665.00 for 12/20 and increasing initially to \$7,706.25/mo. and eventually to over \$9,000.00/mo. See Disclosure Statement, dkt.90-11, Attachment 5.

But Debtor's projected cash flows appear to be unrealistic because at present Debtor is barely breaking even, after monthly interest-only payments of \$3,500/mo. to its principal secured creditor, First Home Bank (see, e.g., MOR for 11/20, dkt.86-2, p.2, and MOR for 10/20, dkt.83-5, p.2), whereas under the Plan Debtor would be paying \$5,055.73/mo. to First Home Bank,

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plus an additional \$519.61 to Chase and \$916.67 to the Subchapter V Trustee or General Unsecured Creditors. See Plan (dkt.89) Ex.A, Classes 2A, 2B & 4A. Based on this apparent gap between projections and recent history, the tentative ruling is to continue the hearing on any Plan and Disclosure Statement until Debtor begins to demonstrate performance consistent with its current projections (or not).

Meanwhile, the tentative ruling is to direct Debtor's counsel not to expend time (and attorney fees) revising the Disclosure Statement to correct the issues noted below, but to be prepared to do so if directed at a future Status Conference (if Debtor's financial performance demonstrates feasibility).

(iii) Corrections to Disclosure Statement (for future reference)

When and if this Court directs, Debtor must prepare a further amended Disclosure Statement correcting formatting issues, such as blank pages (see, e.g., Disclosure Statement (dkt.90-1), Ex.C1 through C3, at PDF pp.2-4) and miniature pages. See id., Ex.E (dkt.90-3). In addition, Ex.C to the Disclosure Statement uses a single, unchanging projection of monthly net income, whereas Debtor's actual projections are much more variable (mostly projected increases). The tentative ruling is that Ex.C need not show every monthly variation, but should reflect the average projections for each of the periods in the Plan.

Again, the tentative ruling is to direct Debtor's attorneys not to correct any of the above-referenced issues unless and until Debtor demonstrates sufficient cash flow for feasibility purposes.

(2) Deadlines/dates. This case was filed on 5/21/20.

- (a) Bar date: 7/30/20 per General Order 20-01 (70 days after petition date in Subchapter V cases) (DO NOT SERVE any notice: one has already been sent, see dkt. 12).
- (b) Procedures order: dkt.7 (served one day late, dkt. 14)
- (c) Plan Disclosure Statement*: See above.
- (d) Continued status conference: 1/26/21 at 1:00 p.m. No written status report required.

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

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

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wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Truemetrics

Represented By
Ryan A. Stubbe

Trustee(s):

Gregory Kent Jones (TR)

Pro Se

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2:20-20909 VEEJ Corp

Chapter 11

#19.00 Cont'd hrg re: Motion for relief from stay [UD]
1/26/21, 2/9/21, 03/23/21

MOSS ATKINSON FAMILY TRUST
VS
DEBTOR

Docket 30

***** VACATED *** REASON: Continued to 4/6/21 @ 1:00 p.m. pursuant to stipulation (dkt. 69).**

Tentative Ruling:

Party Information

Debtor(s):

VEEJ Corp

Represented By
Jeffrey S Shinbrot

Movant(s):

Moss Atkinson Family Trust

Represented By
Giovanni Orantes

Trustee(s):

Susan K Seflin (TR)

Pro Se

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

Tuesday, March 23, 2021

Hearing Room 1545

1:00 PM

2:20-20909 VEEJ Corp

Chapter 11

#20.00 Cont'd Status Conference re: Chapter 11 Case
fr. 1/5/21, 1/26/21, 03/02/21

Docket 1

Tentative Ruling:

Tentative Ruling for 3/23/21 (revised as noted below):
Appearances required.

(1) Current issues

(a) Motion of Moss Atkinson Family Trust ("Lessor") for Relief from Stay (dkt. 30), Debtor's Opposition (dkt. 45), Lessor's Reply (dkt. 50)

[Original tentative ruling:] The Court has continued the hearing on Lessor's motion from 1/26/21 to 2/9/21, 3/2/21 and now this current hearing, based on the stipulations filed by the parties. See dkts. 53, 57, 63. There is no tentative ruling, but the parties should be prepared to discuss the status of their negotiations regarding the premises at 24901 W. Avenue Stanford, in Valencia, California (the "Premises").

[Revised ruling:] This matter has been continued to 4/6/21 at 1:00 p.m. by further stipulation of the parties and this Court's order thereon. See dkt. 69, 71.

(b) Debtors' proposed Plan (dkt. 68)

The tentative ruling is to address the following issues with Debtor's counsel and set a deadline to file an amended proposed Plan. The issues to be addressed are:

(i) Background

Based solely on Debtor's bankruptcy schedules, Debtor appears solvent. Total assets are listed at \$1,036,013.07 and total claims at \$980,585.66. But, as set forth below, that appears to be inaccurate.

As for assets, Debtor's bankruptcy Schedule A/B lists \$934,283.07 in accounts receivable, with no deduction for doubtful or uncollectible accounts, despite the fact that those accounts are listed as being over 90 days old. Debtor's only other listed assets are \$1,730.00 in the bank and a claim against Lessor estimated at \$100,000.00.

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As for liabilities, Debtor apparently has two secured claims aggregating just under \$90,000 or just under \$140,000 - it is unclear which. See Plan (dkt. 68), p. 16 ($\$79,404.04 + \$9,625.68 = \$89,029.72$ secured claims) and *compare id.* at p. 31:12 ($\$139,039$ secured claims). Bankruptcy Schedule E/F lists $\$934,073.07$ in unsecured claims, and the Plan lists $\$1,068,892.00$. The principal unsecured claims listed on Schedule E/F include over $\$500,000.00$ in unpaid shipping charges and, in line 3.3, Lessor's claim at $\$398,686.20$ (purportedly without offset, although that appears to be inconsistent with the alleged $\$100,000.00$ claim against Lessor and the Plan lists Lessor's claim at $\$541,474.20$, which is disputed by Debtor).

As this Court understands Debtor's background, its business previously included storage at the Premises of tens of thousands of original motion picture "films in the can," weighing approximately 50 pounds each, which major film studios entrusted to Debtor. The Premises allegedly have unique and special qualities for that purpose. There is no explanation whether Debtor is still engaged in other lines of business, or the possible value of any such ongoing businesses, by the Plan implies that there is no such value, and the Plan proposes to liquidate Debtor.

Debtor's bankruptcy Schedule G lists no executory contracts for storage of the films, so apparently Debtor has spun off that business. In 2019 Debtor formed HFC Media Services Corporation ("Affiliate"), which promised to take over all obligations under the lease of the Premises including back rent (for an estimated total obligation of $\$935,283.07$) in exchange for a license to use the Premises, the right to Debtor's security deposit of $\$395,855.80$, $\$70,000$ in cash, and, apparently, approximately $\$395,885.80$ of accounts receivable transferred to it by Debtor. Under Affiliate's Agreement with Debtor, if rights to the Premises are terminated or lost then Affiliate is obligated to pay Debtor $\$400,000.00$.

In actuality, despite the alleged value of Debtor's accounts receivable as stated in Schedule A/B, Debtor's Plan appears to treat those accounts as having no value in excess of the liens against them, and Debtor's Plan states that its primary asset is the license Agreement with Affiliate, pursuant to which Affiliate has already paid $\$150,771.98$ to Lessor on Debtor's behalf (not including rent payments). That appears to be deducted from the presumptive $\$400,000.00$ that will be owed to Debtor by Affiliate.

Debtor calculates that this leaves a balance owed by Affiliate, once the lease is terminated, of $\$249,228.05$, less any payments that Affiliate pays to

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Lessor on Debtor's behalf through the Effective Date. Debtor's Plan proposes that Affiliate will pay Debtor that balance in 36 monthly installments commencing on the first month following the Effective Date.

Those payments will be used to fund an estimated \$50,000.00 in administrative expenses, payment of the secured claims with no interest, and then a pro rata distribution to nonpriority unsecured claims. Debtor's liquidation analysis and projection of distributions under the Plan states: "[a]ssuming a liquidation value of \$250,000 ... Class 3 [unsecured] claims should expect to receive approximately ... 10% of the allowed amount of their respective claims" under the Plan and approximately 3% in a hypothetical chapter 7 liquidation. Plan (dkt. 68), p. 31:10-16.

Some of the forgoing information is not in the Plan. It is derived from other filed documents. See *generally* Stat.Rpt. (dkt.20) at PDF p.13:1-14; Bankruptcy Schedules (dkt. 19) (*passim*) and Statement Of Financial Affairs ("SOFA") (dkt. 19), p.3, line 13.1 (PDF p.18). See *also* Plan (dkt. 68), Part IV.A. (history of Debtor), pp. 8:5-9:5 & 10:19-28; *and* Agreement between Debtor and Affiliate (Ex.1 to Plan, dkt. 68, at PDF pp. 43-46).

Debtor and Lessor have been attempting to settle their claims, but without success so far. Affiliate apparently has been paying Debtor's monthly postpetition leasehold obligations, which have been set off against the anticipated \$400,000.00 obligation of Affiliate to Debtor. Debtor's proposed Plan includes the following provision:

V. Retention of Premises to Accommodate Orderly Relocation of Films.

[Affiliate] shall retain its rights to occupy the [Premises] for a period of six-months after the Effective Date to accommodate the relocation of third-party films that are located at the premises and shall pay [Lessor] the amount of \$26,050.00 on the 21st day of each month during this period. [Plan (dkt.68), p.29:12-17]

Based on the foregoing background, and this Court's review of the Plan and other filed documents, Debtor is directed to address the following issues at the hearing, and Lessor or other parties in interest are invited to do the same.

(ii) Lease of Premises

The Plan does not specify the legal basis for the above-quoted provision regarding post-confirmation occupancy of the Premises. Is Debtor

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proposing a deferred rejection of the lease under 11 U.S.C. 365? This might be a confirmation issue; but before the expense and possible confusion of mailing out a proposed Plan to all creditors, it makes sense to address whether there are any "gating" issues.

(iii) Notice to film owners?

This Court recognizes that the major film studios that own the films located at the Premises might not qualify as creditors of Debtor (although, without knowing the parties' contractual arrangements that is unclear). But the tentative ruling is that Debtor must provide them with notice of the confirmation hearing so that they have an opportunity to be heard if they believe that they are creditors or other parties in interest whose rights might be affected by the Plan.

(iv) Cost of moving film cans?

The Plan does not appear to address the costs of moving the film cannisters. See Plan (dkt. 68), p. 31:10-16. Will that be borne entirely by Affiliate?

(v) Other

The foregoing "background" section includes some issues that are not addressed in Debtor's summary of its business, liquidation analysis, and projections. For example, (w) who owes Debtor the dollar amounts included in Debtor's accounts receivable, and what are the chances of collection; (x) what is the actual dollar amount of secured claims; (y) what happened to Debtor's other lines of business, and what are the potential revenues and values of those businesses (if any); and (z) what are the details of any transaction in which Debtor spun off its film storage business to Affiliate (*i.e.*, how does Debtor analyze that transaction from the perspective of a potential claim for voidable transfer)? The tentative ruling is that the proposed Plan must be amended to address those things.

In addition, Debtor is cautioned that various Plan provisions might exceed this Court's authority, or might not be approved for other reasons, even in the absence of any objection by parties in interest. For example, this Court anticipates reviewing carefully the Plan's proposed exculpation, retention of claims against creditors that are not specifically described, and prohibition on new or amended claims by creditors, etc. See Plan (dkt. 68),

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pp.20:24-22:6, 26:8-14, 27:14-28, 28:13-20.

(vi) Conclusion as to Plan

[**Original tentative ruling:**] The tentative ruling is to set a **deadline of 4/14/21** for Debtor to file an amended proposed Plan (but NOT serve it on anyone except Lessor and the UST).

[**Revised tentative ruling:**] The tentative ruling is to address these issues at the continued status conference (see below).

(2) Deadlines/dates. This case was filed on 12/13/20. Debtor elected to proceed under Subchapter V.

- (a) Bar date: 2/22/21 per General Order 20-01 (70 days after petition date in Subchapter V cases) (DO NOT SERVE any notice: one has already been sent, see dkt.23).
- (b) Procedures order: dkt. 3 (timely served, dkt. 6).
- (c) Plan (dkt. 68): see above.
- (d) Continued status conference: [**Original tentative ruling:**] 4/27/21 at 1:00 p.m., [**Revised tentative ruling:**] 4/6/21 at 1:00 p.m., concurrent with the continued hearing on the Lessor's motion for relief from the automatic stay. No written status report is required.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

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Chapter 11

Debtor(s):

VEEJ Corp

Represented By
Jeffrey S Shinbrot

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Hearing Room 1545

1:00 PM

2:20-20550 Andrew Ming Zhou

Chapter 7

#21.00 Cont'd hrg re: Motion for a Bankruptcy Rule 2004 Examination of Debtor Andrew Zhou and for Production of Documents fr. 2/18/21

Docket 15

*** VACATED *** REASON: Continued to 4/27/21 at 1:00 p.m. pursuant to the parties' stipulation (dkt. 29) and order thereon

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Andrew Ming Zhou

Represented By
Jeffrey J Hagen

Trustee(s):

Elissa Miller (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 1545

1:00 PM

2:18-11714 Teresa Dominguez Aguilar

Chapter 11

#22.00 Hrg re: Motion For Entry of Discharge of Chapter 11 Case
Pursuant to 11 U.S.C 1141(D)(5) Upon Completion of Payments
to Unsecured Creditors and Final Decree Closing Chapter 11 Case

Docket 94

Tentative Ruling:

Please see the tentative ruling for the Status Conference (Calendar No. 23,
3/23/21 at 1:00 p.m.).

Party Information

Debtor(s):

Teresa Dominguez Aguilar

Represented By
Onyinye N Anyama

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

1:00 PM

2:18-11714 Teresa Dominguez Aguilar

Chapter 11

#23.00 Cont'd Status Conference re: Post Confirmation
fr. 3/20/18, 5/1/18, 7/10/18, 9/4/18, 11/27/18, 03/26/19

Docket 6

Tentative Ruling:

Tentative Ruling for 3/23/21 [added to the calendar]:

Appearances are not required.

(1) Current issues

(a) Debtor's Motion for Entry of a Discharge of Chapter 11 Case Pursuant to 11 U.S.C. 1141(d)(5) Upon Completion of Payments to Unsecured Creditors and Final Decree Closing Chapter 11 Case (dkt. 94, 95, 97)

There are no filed objections on the docket and the statutory requirements of 11 U.S.C. 1141(d)(5) appear to be satisfied.

The tentative ruling is to Grant the motion.

Proposed order: Debtor is directed to lodge a proposed order granting the motion, via LOU, within 7 days after the hearing date. See LBR 9021-1(b)(1) (B). This Court will then issue the standard orders granting Debtor's discharge and issuing a final decree closing the case.

(2) Deadlines/dates

This case was filed on 2/16/18, and Debtor's plan was confirmed on 9/12/18 (dkt. 74). The tentative ruling is that no future status conferences are required because this case will be closed.

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

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CONT... Teresa Dominguez Aguilar

Chapter 11

COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Teresa Dominguez Aguilar

Represented By
Onyinye N Anyama

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, March 23, 2021

Hearing Room 1545

2:00 PM

2:16-21559 David MacMillan

Chapter 7

#1.00 Hrg re: Trustee's Objection to Amended Claim of Wyndham Vacation Resorts, Inc.

Docket 522

***** VACATED *** REASON: Continued to 4/6/21 @ 2pm per stip & ord
[dkt 536]**

Tentative Ruling:

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr
Christian T Kim

Peter J Mastan (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, March 23, 2021

Hearing Room 1545

2:00 PM

2:19-10552 Attitude Marketing, Inc.

Chapter 7

#2.00 Hrg re: Trustee's Objection to Amended Claim of Wyndham Vacation Resorts, Inc.

Docket 191

***** VACATED *** REASON: Continued to 4/6/21 @ 2pm per stip & ord
[dkt 202]**

Tentative Ruling:

Party Information

Debtor(s):

Attitude Marketing, Inc.

Represented By
James A Dumas Jr
Christian T Kim

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
Christian T Kim
James A Dumas Jr

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

2:00 PM

2:19-23664 Liat Talasazan

Chapter 7

#3.00 Hrg re: Motion for Turnover of Property of the Estate
Pursuant to 11 U.S.C. § 542 35th Street Properties

Docket 543

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 6,
3/23/21 at 2:00 p.m.).

Party Information

Debtor(s):

Liat Talasazan

Represented By
Giovanni Orantes
Luis A Solorzano

Trustee(s):

Caroline Renee Djang (TR)

Represented By
David Wood

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

2:00 PM

2:19-23664 Liat Talasazan

Chapter 7

#4.00 Cont'd hrg re: Motion for Turnover of Property of the Estate
Pursuant to 11 U.S.C. § 542
fr. 9/15/20, 9/29/20, 10/27/20, 12/1/20, 12/22/20, 2/9/21, 03/02/21

Docket 280

Tentative Ruling:

Tentative Ruling for 3/23/21:

Please see the tentative ruling for the status conference (Calendar No. 6, 3/23/21 at 2:00 p.m.).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Liat Talasazan

Represented By
Giovanni Orantes
Luis A Solorzano

Movant(s):

Caroline Renee Djang (TR)

Pro Se

Trustee(s):

Caroline Renee Djang (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Tuesday, March 23, 2021

Hearing Room 1545

2:00 PM

2:19-23664 Liat Talasazan

Chapter 7

#5.00 Cont'd hrg re: Emergency Motion for Order (1) Directing the United States Marshal or Other Appropriate Law Enforcement Agency to Evict the Debtor, Her Parents and/or Any and All Other Occupants From the Real Property Located at 636 N. Laurel Ave., Los Angeles, CA 90048; and (2) Issuing an Order to Show Cause Re Contempt
fr. 10/27/20, 12/1/20, 12/22/20, 2/9/21, 03/02/21

Docket 318

Tentative Ruling:

Tentative Ruling for 3/23/21:

Please see the tentative ruling for the status conference (Calendar No. 6, 3/23/21 at 2:00 p.m.).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Liat Talasazan

Represented By
Giovanni Orantes
Luis A Solorzano

Movant(s):

Caroline Renee Djang (TR)

Pro Se

Trustee(s):

Caroline Renee Djang (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Tuesday, March 23, 2021

Hearing Room 1545

2:00 PM

2:19-23664 Liat Talasazan

Chapter 7

#6.00 Cont'd Status Conference re: Chapter 7 Case
fr. 1/28/20, 2/18/20, 3/3/20, 3/10/20, 03/31/20,
4/7/20, 5/12/20, 5/19/20, 6/2/20, 6/16/20, 7/28/20,
8/18/20, 9/1/20, 9/15/20, 9/29/20, 10/27/20, 12/1/20,
12/22/20, 2/9/21, 03/02/21

Docket 49

Tentative Ruling:

Tentative Ruling for 3/23/21:

Appearances required.

(1) Current issues

(a) Subchapter V Trustee's motion for turnover of Laurel Property (dkt. 280), Debtor's opposition (dkt. 285), Michael Tremblay's response (dkt. 291), Interim Turnover Order (dkt. 300)

The parties are directed to update this Court on the status of this motion and address whether any additional relief is appropriate. The tentative ruling is to take this matter off calendar, without prejudice to the Chapter 7 Trustee placing it back on calendar on 14 days' notice (and direct the Trustee to lodge a proposed order memorializing such shortened notice). On the other hand, if continuance of this matter is appropriate, the tentative ruling is for such continuance to be concurrent with the continued status conference (see below, section "(2)(a)").

(b) Subchapter V Trustee's motion re eviction/contempt (dkt. 318, 319, the "Eviction/OSC Motion"), 319), Debtor & Orantes declarations (dkt. 320, 322), Orantes declaration (dkt. 322), Order shortenting time (dkt. 323) and POS (dkt. 326), Trustee declaration (dkt. 328), Debtor & Orantes declarations & opposition (dkt. 329, 330, 331), Trustee's declaration re compensatory sanctions (dkt. 335), order imposing compensatory sanctions (dkt. 400); further declarations re compensatory sanctions (dkt.573, 574)

The parties are directed to update this Court on the status of this motion and address whether any additional relief is appropriate. The tentative ruling is to continue this matter to be concurrent with the continued

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Liat Talasazan

Chapter 7

status conference (see below, section "(2)(a)"), with a **deadline of 3/30/21** for Debtor to respond to the latest declarations re compensatory sanctions (dkt.573, 574), and a **deadline of 4/6/21** for the Trustee's reply.

(c) Subchapter V Trustee's Motion for turnover of 35th Street Properties, accounting re Jefferson property, etc. (dkt. 543, 544), Debtor's response (dkt. 562), Oxygen's joinder (dkt. 568), Subchapter V Trustee's reply (dkt. 569, 570)

The tentative ruling is to overrule Debtor's opposition, grant the motion, and set a **deadline of 3/30/21** for Debtor and any other persons in possession, custody or control of property of the estate to comply with the Trustee's requests in the motion (for turn over and to provide an accounting etc.).

If they fail to do so, the Trustee may file a declaration and any other appropriate papers and lodge a proposed order setting a hearing concurrent with the continued status conference (see below, section "(2)(a)") directing Debtor and any other persons believed to be in possession, custody or control of property of the estate to appear and show cause why they should not be held in contempt and sanctioned for their failure to comply with this Court's turnover order.

Proposed orders: The Trustee is directed to lodge proposed orders reflecting any other disposition of the above items, beyond mere continuance, via LOU within 7 days after the hearing date, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 11/20/19, converted from chapter 13 to chapter 11 on 1/2/20, designated by Debtor as a Subchapter V case on 3/2/20 (dkt.128), and converted to chapter 7 on 12/1/20 (dkt. 412).

(a) Continued status conference: 5/4/21 at 2:00 p.m. No written status report required.

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

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Liat Talasazan

Chapter 7

by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED (see Memorialization of Tentative Rulings, dkt.208 (filed 5/19/20) and dkt.303 (filed 9/21/20). See also Order Denying Motion for Stay (dkt.441, as amended by dkt.442).]

Party Information

Debtor(s):

Liat Talasazan

Represented By
Giovanni Orantes
Luis A Solorzano

Trustee(s):

Caroline Renee Djang (TR)

Pro Se

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

2:00 PM

2:20-11333 Edmund Lincoln Anderson

Chapter 11

#7.00 Cont'd Hrg re: Debtor's Motion for Order Disallowing Claim Number 18
Pursuant to FRBP 3003(c)(2), 11 U.S.C. Section 502(b)(9)
fr. 03/02/21

Docket 292

Tentative Ruling:

Tentative Ruling for 3/23/21:

Please see the tentative ruling for the status conference (Calendar No. 8,
3/23/21 at 2:00 p.m.).

Tentative Ruling for 3/2/21:

Please see the tentative ruling for the status conference (Calendar No. 2,
3/2/21 at 2:00 p.m.).

Party Information

Debtor(s):

Edmund Lincoln Anderson

Represented By
Stella A Havkin

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Hearing Room 1545

2:00 PM

2:20-11333 Edmund Lincoln Anderson

Chapter 11

#8.00 Cont'd Status Conference re: Chapter 11 Case
fr. 3/3/20, 3/10/20, 4/7/20, 4/21/20, 6/2/20, 7/14/20,
7/28/20, 8/18/20, 9/1/20, 10/6/20, 10/27/20, 12/1/20,
1/5/21, 2/9/21, 03/02/21

Docket 1

Tentative Ruling:

Tentative Ruling for 3/23/21:

Appearances required.

(1) Current issues

(a) Debtor's Motion/Objection to Claim 18 (dkt. 292, 294, 297);
Claimant's Opposition (dkt. 313); Debtor's reply (dkt.320)

There is no tentative ruling. The parties are directed to address whether they have settled this matter, or alternatively to argue the issues in their filed papers.

(b) Cash collateral: declaration re 3d default (the "Default Decl.,"
dkt.315), Debtor's response (dkt.317), order setting hearing (dkt.318)

There is no tentative ruling, but the parties should be prepared to address the issues raised in the default declaration and Debtor's response.

(c) Monthly Operating Reports ("MORs"): continuing compliance stip.
(dkt. 232); order approving same (dkt. 234); lack of breakdown of gross
revenues, expenses, and net revenues in past MORs (reviewed at hearing on
2/9/21, tentative ruling thereon, and thereafter); lack of MOR for February,
2021

Debtor is directed to address why Debtor continues to be out of compliance with MORs, and what action this Court should take.

(2) Deadlines/dates. This case was filed on 2/6/20.

(a) Bar date: 5/1/20 (dkt. 50; timely served, dkt. 55).

(b) Procedures order: dkt. 7 (timely served, dkt.8)

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CONT...

Edmund Lincoln Anderson

Chapter 11

(c) Plan/Disclosure Statement (dkt. 251, 250)*: TBD.

(d) Continued status conference: 4/27/21 at 2:00 p.m. No written status report is required.

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

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Edmund Lincoln Anderson

Represented By
Stella A Havkin

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

Tuesday, March 23, 2021

Hearing Room 1545

2:00 PM

2:20-11333 Edmund Lincoln Anderson

Chapter 11

#8.10 Hrg re: Third Default on Stipulation for use of
Cash Collateral and Adequate Protection
(Internal Revenue Service)

Docket 315

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 8,
3/23/21 at 2:00 p.m.).

Party Information

Debtor(s):

Edmund Lincoln Anderson

Represented By
Stella A Havkin

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

Tuesday, March 23, 2021

Hearing Room 1545

2:00 PM

2:20-18465 Jeremy Daniel Kintner

Chapter 13

Adv#: 2:20-01656 Kintner v. State of California Department of Tax and Fee Admi

#9.00 Cont'd hrg re: Motion to Dismiss Adversary Proceeding to Redetermine Purported Tax Liability, to Recover Overpaid Amounts, and to Determine Dischargeability of any Amount Otherwise Due
1/26/21, 3/9/21

Docket 4

Tentative Ruling:

Tentative Ruling for 3/23/21:

Please see the tentative ruling for the status conference (Calendar No. 10, 3/23/21 at 2:00 p.m.).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Jeremy Daniel Kintner

Represented By
David S Hagen

Defendant(s):

State of California Department of

Represented By
Laura E Robbins

Plaintiff(s):

Jeremy Daniel Kintner

Represented By
Mark Bernsley

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Tuesday, March 23, 2021

Hearing Room 1545

2:00 PM

2:20-18465 Jeremy Daniel Kintner

Chapter 13

Adv#: 2:20-01656 Kintner v. State of California Department of Tax and Fee Admi

#10.00 Cont'd Status Conference re: Complaint to Redetermine Purported Tax Liability, to Recover Overpaid Amounts, and to Determine Dischargeability of Any Amount Otherwise Due fr. 1/12/21, 1/26/21, 3/9/21

Docket 1

Tentative Ruling:

Tentative Ruling for 3/23/21:

Dismiss this adversary proceeding, without prejudice, based on this Court's dismissal of the bankruptcy case at the hearing on 3/18/21 at approximately 8:30 a.m., and this Court's consequent lack of jurisdiction under 11 U.S.C. 505. Appearances are not required on 3/23/21.

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

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

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

Tuesday, March 23, 2021

Hearing Room 1545

2:00 PM

CONT... Jeremy Daniel Kintner

Chapter 13

Debtor(s):

Jeremy Daniel Kintner

Represented By
David S Hagen

Defendant(s):

State of California Department of

Pro Se

Plaintiff(s):

Jeremy Daniel Kintner

Represented By
Mark Bernsley

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Wednesday, March 24, 2021

Hearing Room 1545

9:00 AM

2:16-17463 Gardens Regional Hospital and Medical Center, Inc.

Chapter 11

#1.00 Continued Mediation Hearing

Judge Robles Case to be heard by Judge Bason
fr. 02/08/21

Docket 0

Party Information

Debtor(s):

Gardens Regional Hospital and

Represented By
Samuel R Maizel
John A Moe II

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

Wednesday, March 31, 2021

Hearing Room 1545

8:00 AM
2:00-00000

Chapter

#0.00

ZoomGov Instructions for all matters on today's calendar:

Meeting ID: 160 262 5612

Password: 457307

Meeting URL: <https://cacb.zoomgov.com/j/1602625612>

Telephone: +1 669 254 5252 or +1 646 828 7666 or 833 568 8864 (Toll Free)

Please connect at least 5 minutes before the start of your hearing, and wait with your microphone muted until your matter is called. You do not need to call Chambers for advance approval. ZoomGov appearances are free

Docket 0

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

Wednesday, March 31, 2021

Hearing Room 1545

10:00 AM

2:21-11720 Jose Angel Rosales

Chapter 11

#1.00 Cont'd Status Conference re: Chapter 11 Case
fr. 03/23/21

Docket 1

Party Information

Debtor(s):

Jose Angel Rosales

Represented By
Nancy Korompis

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

Wednesday, March 31, 2021

Hearing Room 1545

10:00 AM

2:21-11720 Jose Angel Rosales

Chapter 11

#2.00 Hrg re: Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate

Docket 26

Party Information

Debtor(s):

Jose Angel Rosales

Represented By
Nancy Korompis

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

Wednesday, March 31, 2021

Hearing Room 1545

2:00 PM

2:21-12517 Law Offices of Brian D. Witzer

Chapter 11

#1.00 Status Conference re: Chapter 11 Case

Docket 0

Party Information

Debtor(s):

Law Offices of Brian D. Witzer

Represented By
Michael Jay Berger

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

Wednesday, March 31, 2021

Hearing Room 1545

2:00 PM

2:21-12517 Law Offices of Brian D. Witzer

Chapter 11

#2.00 Hrg re: Debtor Law Offices of Brian D. Witzer, Inc.'s
Emergency Motion for Order Authorizing Interim Use
of Cash Collateral

Docket 6

Party Information

Debtor(s):

Law Offices of Brian D. Witzer

Represented By
Michael Jay Berger

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

Wednesday, March 31, 2021

Hearing Room 1545

2:00 PM

2:21-12517 Law Offices of Brian D. Witzer

Chapter 11

**#3.00 Hrg re: Debtor Law Offices of Brian D. Witzer, Inc.'s Emergency Motion
for Order Authorizing Payment of Wages and Related Expenses**

Docket 8

Party Information

Debtor(s):

Law Offices of Brian D. Witzer

Represented By
Michael Jay Berger

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

Wednesday, March 31, 2021

Hearing Room 1545

2:00 PM

2:21-12517 Law Offices of Brian D. Witzer

Chapter 11

#4.00 Hrg re: Motion in Individual Chapter 11 Case for Order
Approving a Budget for the Use of the Debtor's Cash and
Post-Petition Income

Docket 7

Party Information

Debtor(s):

Law Offices of Brian D. Witzer

Represented By
Michael Jay Berger

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

Tuesday, April 6, 2021

Hearing Room 1545

9:00 AM

2:00-00000

Chapter

#0.00 ZoomGov Instructions for all matters on today's calendar:

Meeting ID: 160 080 8743

Password: 507338

Meeting URL: <https://cacb.zoomgov.com/j/1600808743>

Telephone: +1 669 254 5252 or +1 646 828 7666 or 833 568 8864 (Toll Free)

Please connect at least 5 minutes before the start of your hearing, and wait with your microphone muted until your matter is called. You do not need to call Chambers for advance approval. ZoomGov appearances are free

Docket 0

Tentative Ruling:

- NONE LISTED -

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

Tuesday, April 6, 2021

Hearing Room 1545

10:00 AM

2:17-17236 Regina Sanders

Chapter 13

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

U.S. BANK NATIONAL ASSOC
vs
DEBTOR

Docket 82

Tentative Ruling:

Appearances are not required.

Grant as set forth below.

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

Termination

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

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

Effective date of relief

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

Co-debtor stay

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

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

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

Tuesday, April 6, 2021

Hearing Room 1545

10:00 AM

CONT... Regina Sanders

Chapter 13

are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Regina Sanders

Represented By
Thomas B Ure

Movant(s):

U.S. BANK NATIONAL

Represented By
Sean C Ferry
Eric P Enciso

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Tuesday, April 6, 2021

Hearing Room 1545

10:00 AM

2:19-21653 Jerry L. Turnbull

Chapter 13

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

U.S. BANK NATIONAL ASSOC
vs
DEBTOR

Docket 40

Tentative Ruling:

Appearances required.

There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 42).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Jerry L. Turnbull

Represented By
Scott Kosner

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

Tuesday, April 6, 2021

Hearing Room 1545

10:00 AM

CONT... Jerry L. Turnbull

Chapter 13

Movant(s):

U.S. BANK NATIONAL

Represented By
Diane Weifenbach

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Tuesday, April 6, 2021

Hearing Room 1545

10:00 AM

2:20-12732 Parvin Jamali

Chapter 7

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

U.S. BANK NA
vs
DEBTOR

Docket 229

Tentative Ruling:

Appearances are not required.

Grant as set forth below.

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

Key documents reviewed (in addition to motion papers): Debtor's Opposition (dkt. 238), Movant's reply (dkt. 243), Debtor's untimely evidentiary objections (dkt. 243)

Movant has established standing to seek relief from stay

The tentative ruling is that Movant has standing to seek relief from the automatic stay as the assignee of the deed of trust. See *In re Gallagher*, 2012 WL 2900477 (Bankr. C.D. Cal. July 12, 2012) (following *In re Veal*, 450 B.R. 897 (9th Cir. BAP 2011)); *In re Dahl* (Case No. 2:11-bk-11028-NB), Memorandum Decision (dkt. 75) at p.2 n.1.

The automatic stay does not apply to acts affecting the abandoned Property, but does apply as to other acts

The tentative ruling is that this Court's order (dkt. 220) authorizing the Trustee to abandon the estate's interest in the real property located at 9219 Robin Drive, Los Angeles, CA 90069 (the "Property") terminated the automatic stay with respect to acts affecting the Property pursuant to 11

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

Tuesday, April 6, 2021

Hearing Room 1545

10:00 AM

CONT... Parvin Jamali

Chapter 7

U.S.C. 362(c)(1). But under 11 U.S.C. 362(c)(2) the stay continues with respect to any other acts (including as to the Debtor, individually) until the earlier of (i) the time the case is closed, (ii) the time the case is dismissed, or (iii) entry or denial of a discharge. The tentative ruling is that none of those three things have occurred in this case, so the stay continues to apply as to acts against the Debtor (i.e. *in personam* acts), but that it is appropriate to grant relief from the automatic stay as set forth below.

Movant has established cause to lift the stay

The tentative ruling is that Movant has not established that its equity cushion is less than 20% or any different percentage that might constitute a lack of adequate protection (see *In re Mellor*, 734 F.2d 1396, 1400 (9th Cir. 1984)), but has established "cause" under 11 U.S.C. 362(d)(1) based on Debtor's bad faith filing including, but not limited to, Debtor's forum shopping and litigious filings which appear to have been intended to drag out this bankruptcy proceeding despite the absence of any reasonable ability to reorganize.

In addition and alternatively, Movant has established "cause" under 11 U.S.C. 362(d)(2) because (i) the Property is not necessary for an effective reorganization because Debtor's case was converted to chapter 7 and the Property has been abandoned and (ii) Debtor lacks any equity in the Property.

For clarification, Debtor seems to be under the misimpression that granting relief from stay to allow Movant to continue litigating in the pre-petition State Court actions and/or pursue foreclosure could somehow be construed as this Court adjudicating those issues in some way. But, as Movant correct notes (dkt. 240, p.2:7-9 & 3:4-9), Debtor is incorrect. The only issues before this Court are whether the automatic stay applies and whether cause exists to lift the stay. For the reasons set forth above, the tentative ruling is that, to the extent the automatic stay applies, "cause" exists to lift the stay so that the parties may pursue any state-law rights and remedies available to them in the state court actions and with respect to the Property.

Termination

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

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 6, 2021

Hearing Room 1545

10:00 AM

CONT...

Parvin Jamali

Chapter 7

present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Relief notwithstanding future bankruptcy cases.

Deny, without prejudice to any other types of relief granted herein (or previously granted), for the following reasons.

The motion requests requests "in rem" relief (*i.e.*, relief applicable notwithstanding *future* bankruptcy cases (under 11 U.S.C. 105(a), 362(d)(4) and/or *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31)). The tentative ruling is to deny that request because Movant has not established an adequate basis for granting *in rem* relief - *i.e.*, Movant does not argue that the Property has been affected by multiple bankruptcy filings, or that there has been an unauthorized transfer of interest in the Property, or any comparable conduct, and this Court is not persuaded to grant such relief under 11 U.S.C. 105(a) or any other authority.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

Evidentiary Objections

The tentative ruling is to overrule Debtor's evidentiary objections (dkt. 243) to the evidence submitted in support of the motion as untimely. Debtor waived and/or forfeited her right to challenge the admissibility of the documents at issue by waiting until after Movant submitted its reply papers to assert her objections. See *In re Hamer*, 138 S.Ct. 13, 17, n.1 (2017) (distinguishing waiver and forfeiture).

Alternatively and in addition, the tentative ruling is to overrule objections 1-5 as they rely on arguments previously rejected by this Court. Moreover, this Court's tentative ruling does not rely on the documents that are the subject of objections 6-8, so it is immaterial whether this Court rules on those objections.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 6, 2021

Hearing Room 1545

10:00 AM

CONT... Parvin Jamali

Chapter 7

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Parvin Jamali

Represented By
Yevgeniya Lisitsa
W. Derek May

Movant(s):

U.S. Bank NA, successor trustee to

Represented By
Arnold L Graff

Trustee(s):

Timothy Yoo (TR)

Represented By
Carmela Pagay

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 6, 2021

Hearing Room 1545

10:00 AM

2:20-15589 Anita D. Savage

Chapter 13

#4.00 Hrg re: Motion for relief from stay [RP]

U.S. BANK, NA
vs
DEBTOR

Docket 31

Tentative Ruling:

Appearances are not required.

Grant as set forth below.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

The automatic stay does not apply

This case has been dismissed, which terminates the automatic stay. See 11 U.S.C. 349(b)(3) & 362(c).

In the alternative and in addition, the tentative ruling is to grant relief from the automatic stay as follows.

Note regarding mootness: Judge Bason's standard tentative ruling is as follows. For three reasons the above tentative ruling that there *is no stay* does not moot requests for relief from whatever stay might apply. First, such *alternative* rulings are appropriate because (i) the very nature of *tentative* rulings is that this Court could be persuaded to depart from any one of them, and (ii) a *final* ruling on any one issue could be reversed on appeal. Second, even if there is currently no stay, that could change - e.g., if there is no stay because of dismissal of this bankruptcy case, such dismissal could be vacated and that might reimpose the stay even if there is a lack of adequate protection, or other grounds why the stay should not apply, and therefore the movant will suffer cognizable harm unless the issues are addressed now (Judge Bason regularly vacates dismissals based on stipulations or other good cause). Third, if the motion includes any request for relief as to *past* acts (annulment) or *future* cases (*in rem* relief), those things are still at issue even if there is no *current* automatic stay. See *In re Aheong*, 276 B.R. 233

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 6, 2021

Hearing Room 1545

10:00 AM

CONT... Anita D. Savage

Chapter 13

(9th Cir. BAP 2002). For all of these reasons, the tentative ruling is that it is appropriate to address the following issues.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Anita D. Savage

Represented By
James D. Hornbuckle

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 6, 2021

Hearing Room 1545

10:00 AM

CONT... Anita D. Savage

Chapter 13

Movant(s):

U.S. Bank, N.A., successor trustee to

Represented By
Robert P Zahradka

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 6, 2021

Hearing Room 1545

10:00 AM

2:19-25220 Laura Elodia Gomez

Chapter 13

#5.00 Hrg re: Motion for relief from stay [RP]

PENNYMAC LOAN SERVICES, LLC
vs
DEBTOR

Docket 47

***** VACATED *** REASON: APO**

Tentative Ruling:

Party Information

Debtor(s):

Laura Elodia Gomez

Represented By
Barry E Borowitz

Movant(s):

PennyMac Loan Services, LLC

Represented By
Robert P Zahradka

Trustee(s):

Kathy A Dockery (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar

Tuesday, April 6, 2021

Hearing Room 1545

10:00 AM

2:20-15698 Gerald Edward Young

Chapter 13

#6.00 Hrg re: Motion for relief from stay [RP]

HIGHLAND HACIENDAS HOMEOWNERS
ASSOCIATION
vs
DEBTOR

Docket 69

Tentative Ruling:

Appearances required.

There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 71).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Gerald Edward Young

Represented By
Erika Luna

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 6, 2021

Hearing Room 1545

10:00 AM

CONT... Gerald Edward Young

Chapter 13

Movant(s):

Highland Haciendas Homeowners

Represented By
Reilly D Wilkinson

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 6, 2021

Hearing Room 1545

10:00 AM

2:20-15698 Gerald Edward Young

Chapter 13

#7.00 Hrg re: Motion for relief from stay [PP]

SANTANDER CONSUMER USA
vs
DEBTOR

Docket 67

Tentative Ruling:

Appearances are not required.

Grant.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 6, 2021

Hearing Room 1545

10:00 AM

CONT... Gerald Edward Young Chapter 13

are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Gerald Edward Young

Represented By
Erika Luna

Movant(s):

Santander Consumer USA Inc. dba

Represented By
Sheryl K Ith

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 6, 2021

Hearing Room 1545

10:00 AM

2:21-11218 Margarita Alvarez Garcia

Chapter 7

#8.00 Hrg re: Motion for relief from stay [PP]

SANTANDER CONSUMER USA INC
vs
DEBTOR

Docket 9

Tentative Ruling:

Appearances are not required.

Grant.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, April 6, 2021

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10:00 AM

CONT... Margarita Alvarez Garcia

Chapter 7

are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Margarita Alvarez Garcia	Pro Se
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Movant(s):

Santander Consumer USA Inc. dba	Represented By Sheryl K Ith
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Trustee(s):

Sam S Leslie (TR)	Pro Se
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**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, April 6, 2021

Hearing Room 1545

10:00 AM

2:18-22053 Matthew J DiBeneditto

Chapter 13

#9.00 Hrg re: Motion for relief from stay [PP]

DAIMLER TRUST
vs
DEBTOR

Docket 28

Tentative Ruling:

Appearances are not required.

Grant as set forth below.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter

**United States Bankruptcy Court
Central District of California
Los Angeles
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10:00 AM

CONT... Matthew J DiBeneditto

Chapter 13

by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Matthew J DiBeneditto

Represented By
Alisa Admiral Garcia

Movant(s):

Daimler Trust

Represented By
Sheryl K Ith

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, April 6, 2021

Hearing Room 1545

10:00 AM

2:21-12043 Jose Meneses and Maria Gomez

Chapter 13

#10.00 Hrg re: Motion in Individual Case for Order
Imposing a Stay or Continuing the Automatic
Stay as the Court Deems Appropriate

Docket 5

Tentative Ruling:

Grant, subject to the following conditions. Appearances are not required.

After the hearing date this Court will prepare an order and the tentative ruling is to include the following language in that order:

The stay of 11 U.S.C. 362(a) applies subject to the following modifications and conditions:

(1) Service and reconsideration. Any party in interest who was not timely served in accordance with FRBP 7004 (incorporated by FRBP 9014(b)) is hereby granted through 14 days after proper service to seek reconsideration, including retroactive relief (under FRBP 9023 and/or 9024). Any such person (a) may set a hearing on 14 days' notice, (b) may appear by telephone (if arrangements are made per Judge Bason's posted procedures), and (c) may present all arguments orally at the hearing (*i.e.*, no written argument is required). If written arguments appear necessary then this court will set a briefing schedule at the hearing.

(2) Reasons. (a) It appears appropriate to impose the automatic stay, and to impose it as to all persons rather than just as to selected persons, because one purpose of the automatic stay is to preventing a "race to collect" that could unfairly advantage some creditors at the expense of others. (b) To prevent possible abuse, this Court provides the foregoing simple process for reconsideration.

(3) Very limited ruling. This Court's tentative ruling to grant the foregoing relief is solely for purposes of this motion, and is not intended to have any binding effect with respect to any future assertions by any party in interest regarding the existence or lack of existence of good faith in any other context.

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Los Angeles
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Tuesday, April 6, 2021

Hearing Room 1545

10:00 AM

CONT... Jose Meneses and Maria Gomez

Chapter 13

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Jose Meneses

Represented By
Jaime A Cuevas Jr.

Joint Debtor(s):

Maria Gomez

Represented By
Jaime A Cuevas Jr.

Movant(s):

Jose Meneses

Represented By
Jaime A Cuevas Jr.
Jaime A Cuevas Jr.

Maria Gomez

Represented By
Jaime A Cuevas Jr.
Jaime A Cuevas Jr.
Jaime A Cuevas Jr.

Trustee(s):

Kathy A Dockery (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, April 6, 2021

Hearing Room 1545

10:00 AM

2:21-11923 Anahit Harutyunyan

Chapter 13

#11.00 Hrg re: Motion in Individual Case for Order
Imposing a Stay or Continuing the Automatic
Stay as the Court Deems Appropriate

Docket 8

*** VACATED *** REASON: Case reassigned to Judge Klein.

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Anahit Harutyunyan

Represented By
Vahe Khojayan

Movant(s):

Anahit Harutyunyan

Represented By
Vahe Khojayan

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, April 6, 2021

Hearing Room 1545

10:00 AM

2:20-15990 Adrian T Bean

Chapter 13

#12.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 1/5/21, 3/2/21

MILL CITY MORTGAGE LOAN TRUST 2018-4
vs
DEBTOR

Docket 34

Tentative Ruling:

Tentative Ruling for 4/6/21:
Appearances required.

Based on the arguments and representations of the parties at the hearing on 3/2/21, this Court continued the matter to this date to allow time for the parties to negotiate the terms of an adequate protection stipulation. There is no tentative ruling. The parties should be prepared to provide an update on the status of any negotiations.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 3/2/21:
Appearances required.

**United States Bankruptcy Court
Central District of California
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Judge Neil Bason, Presiding
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Tuesday, April 6, 2021

Hearing Room 1545

10:00 AM

CONT... Adrian T Bean

Chapter 13

Based on the arguments and representations of the parties at the hearing on 1/5/21, this Court continued the matter to this date to allow time for the parties to negotiate the terms of an adequate protection stipulation. There is no tentative ruling. The parties should be prepared to provide an update on the status of any negotiations.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 1/5/21:
Appearances required.

There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 44).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the

**United States Bankruptcy Court
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10:00 AM

CONT... Adrian T Bean

Chapter 13

first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Adrian T Bean

Represented By
Christopher J Langley

Movant(s):

Mill City Mortgage Loan Trust 2018

Represented By
Sean C Ferry
Kristin A Zilberstein

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, April 6, 2021

Hearing Room 1545

10:00 AM

2:19-14249 Aquita Winslow

Chapter 13

#13.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 8/4/20, 9/1/20, 11/10/20, 12/8/20, 1/12/21

HSBC BANK USA, NA
vs
DEBTOR

Docket 37

*** VACATED *** REASON: Voluntary dismissal filed on 1/27/21[dkt.
58]

Tentative Ruling:

Party Information

Debtor(s):

Aquita Winslow

Represented By
Elena Steers

Movant(s):

HSBC BANK USA, N.A

Represented By
Sean C Ferry
Eric P Enciso

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Hearing Room 1545

10:00 AM

2:20-10995 Victoria Marina Almaraz

Chapter 13

#14.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 12/1/20, 2/9/21

THE BANK OF NEW YORK MELLO TRUST CO
vs
DEBTOR

Docket 40

Tentative Ruling:

Tentative Ruling for 4/6/21:
Appearances required.

At the 2/9/21 hearing, this Court approved the parties' request to continue the hearing based on the ongoing adequate protection order negotiations and Debtor's recently approved loan modification. There is no tentative ruling, but the parties should be prepared to discuss the status of these negotiations.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 2/9/21:
Appearances required.

At the 12/1/20 hearing, this Court was persuaded to continue the hearing to

**United States Bankruptcy Court
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Los Angeles
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Tuesday, April 6, 2021

Hearing Room 1545

10:00 AM

CONT... Victoria Marina Almaraz

Chapter 13

allow the parties an opportunity to negotiate the terms of an adequate protection order. There is no tentative ruling, but the parties should be prepared to discuss the status of these negotiations.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

**Tentative Ruling for 12/1/20:
Appearances required.**

There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 44 - erroneously linked on the docket to a different motion).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

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10:00 AM

CONT... Victoria Marina Almaraz

Chapter 13

Party Information

Debtor(s):

Victoria Marina Almaraz

Represented By
Thomas B Ure

Movant(s):

The Bank of New York Mellon Trust

Represented By
Sean C Ferry

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, April 6, 2021

Hearing Room 1545

10:00 AM

2:18-18445 Tiffani Marie Bowen

Chapter 13

#15.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 3/2/21

LAKEVIEW LOAN SERVICING, LLC
VS
DEBTOR

Docket 40

***** VACATED *** REASON: APO**

Tentative Ruling:

Party Information

Debtor(s):

Tiffani Marie Bowen

Represented By
Jeffrey N Wishman

Movant(s):

Lakeview Loan Servicing, LLC

Represented By
Christina J Khil
Nathan F Smith

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, April 6, 2021

Hearing Room 1545

10:00 AM

2:19-16545 Bianca Marie Aranda

Chapter 13

#16.00 **[CASE DISMISSED 1/26/21]**

Cont'd hrg re: Motion for relief from stay [RP]
fr. 9/29/20, 11/10/20, 12/22/20, 1/12/21

PENNYMAC LOAN SERVICES, LLC
vs
DEBTOR

Docket 52

Tentative Ruling:

Tentative Ruling for 4/6/21:

Appearances are not required.

Grant as set forth below.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

The automatic stay does not apply

This case has been dismissed, which terminates the automatic stay. See 11 U.S.C. 349(b)(3) & 362(c).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, April 6, 2021

Hearing Room 1545

10:00 AM

CONT... Bianca Marie Aranda

Chapter 13

**Tentative Ruling for 1/12/21:
Appearances required.**

At the 12/22/20 hearing, the Court was persuaded to continue the hearing to allow the debtor to provide evidence of the forbearance application, evidence of sufficient equity in the property to support a finding of adequate protection, and/or motion for authority to sell the subject property. Debtor has now provided a real estate broker's price opinion (dkt.58, the "BPO") estimating the property's value at \$413,000. According to Debtor's prior calculations, that would result in an equity cushion of over \$100,000.

Although BPOs are not the best evidence of value, they are some evidence, and based on the apparent equity cushion the tentative ruling is that there is adequate protection of the movant's interest in the property to warrant additional time for Debtor (a) to seek a forbearance agreement, (b) to attempt to negotiate repayment of the postpetition arrears over a period of months pursuant to an adequate protection order ("APO"), (c) to attempt to modify the confirmed chapter 13 plan to address both prepetition and postpetition arrears, (d) to attempt to sell the subject property, or (e) to address the defaults and pre- and postpetition arrears in some other way. The inclusion of each of the foregoing hypothetical alternatives should not be construed as a ruling that any one of them would be acceptable in this particular case. The parties are directed to address whether Debtor realistically can pursue one or more alternatives, and how long a continuance this Court should provide for that, and/or for Movant to obtain its own valuation of the subject property, and/or for any other course of action by either party.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the

**United States Bankruptcy Court
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10:00 AM

CONT... Bianca Marie Aranda

Chapter 13

first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

**Tentative Ruling for 12/22/20:
Appearances required.**

At the 11/10/20 hearing, the Court was persuaded to continue the hearing to allow the parties an opportunity to negotiate a forbearance. There is no tentative ruling, but the parties should be prepared to address the status of those negotiations.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

**Tentative Ruling for 11/10/20 (same as for 9/29/20):
Appearances required.**

There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 54).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, April 6, 2021

Hearing Room 1545

10:00 AM

CONT... Bianca Marie Aranda Chapter 13

are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, all appearances are telephonic via CourtCall at (888) 882-6878.

Party Information

Debtor(s):

Bianca Marie Aranda

Represented By
William G Cort

Movant(s):

PennyMac Loan Services, LLC

Represented By
Megan E Lees
Robert P Zahradka
Christina J Khil
Josephine E Salmon

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, April 6, 2021

Hearing Room 1545

11:00 AM

2:20-20030 Mohammed June

Chapter 7

#1.00 Cont'd hrg re: Reaffirmation Agreement
[SchoolsFirst Federal Credit Union]
fr. 3/11/21

Docket 14

Tentative Ruling:

Appearances required.

Based on the Debtor's representations at the hearing on 3/11/21, this Court was persuaded to continue the matter to allow time for Debtor to make additional payments that might moot the reaffirmation agreement. There is no tentative ruling, but Debtor should be prepared to update this Court on whether those payments have been made.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Mohammed June

Pro Se

Trustee(s):

Wesley H Avery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, April 6, 2021

Hearing Room 1545

11:00 AM

2:20-20301 Marlene Rivera

Chapter 7

#2.00 Cont'd hrg re: Reaffirmation Agreement
[California Credit Union]
fr. 3/11/21

Docket 12

Tentative Ruling:

Appearances required.

There is no tentative ruling for this continued hearing (the prior hearing was continued because Debtor did not appear).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Marlene Rivera

Pro Se

Trustee(s):

Heide Kurtz (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 6, 2021

Hearing Room 1545

11:00 AM

2:20-21190 Munkhtsogt Shagdarsuren

Chapter 7

#3.00 Cont'd hrg re: Reaffirmation Agreement
[Ally Bank]
fr. 3/11/21

Docket 10

Tentative Ruling:

Appearances required.

There is no tentative ruling for this continued hearing (the prior hearing was continued because Debtor did not appear).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Munkhtsogt Shagdarsuren

Represented By
Elena Steers

Trustee(s):

Carolyn A Dye (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 6, 2021

Hearing Room 1545

11:00 AM

2:18-12286 Kevin James Quinn

Chapter 7

Adv#: 2:18-01158 Duff v. Quinn

#4.00 Cont'd Status Conference re: Complaint for Objecting to Debtor's Discharge Pursuant to Section 727 of the Bankruptcy Code fr. 08/07/18, 11/27/18, 2/5/19, 3/28/19, 06/06/19; 08/08/19, 11/19/19, 02/18/20, 5/20/20, 6/2/20, 7/28/20, 9/15/20, 12/1/20, 1/26/21, 3/2/21

Docket 1

Tentative Ruling:

Tentative Ruling for 4/6/21:
Appearances are not required.

On 3/1/21 this Court issued its Memorandum Decision (adv. dkt. 51) and Judgment (dkt. 50) denying Debtor's discharge under 11 U.S.C. 727(a)(4)(A). This Court is not aware of any post-judgment issues for this Court to resolve at this time. The tentative ruling is to take this matter off calendar and direct the Clerk's Office to close the adversary proceeding in accordance with its usual procedures, subject to any necessary or appropriate reopening in future.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 6, 2021

Hearing Room 1545

11:00 AM

CONT... Kevin James Quinn

Chapter 7

Party Information

Debtor(s):

Kevin James Quinn

Represented By
John F Wolcott

Defendant(s):

Kevin James Quinn

Represented By
John F Wolcott

Plaintiff(s):

James T Duff

Represented By
James T Duff

Trustee(s):

David M Goodrich (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 6, 2021

Hearing Room 1545

11:00 AM

2:20-11950 Armando Hernandez

Chapter 7

Adv#: 2:20-01164 Krasnoff v. Hernandez

- #5.00** Cont'd Status Conference re: Complaint (1) To Avoid Fraudulent Transfer Pursuant to 11 U.S.C. Sections 544 and 548; (2) To Recover Avoided Transfers Pursuant to 11 U.S.C. Section 550; (3) Automatic Preservation of Avoided Transfer Pursuant to 11 U.S.C. Section 551; and (4) Unjust Enrichment/Restitution fr. 10/27/20, 3/2/21

Docket 1

Tentative Ruling:

Tentative Ruling for 4/6/21:

Appearances are not required.

On 2/22/21 this Court entered the parties proposed stipulated judgment (adv. dkt. 19). This Court is not aware of any outstanding issues for this Court to address at this time, so the tentative ruling is to direct the Clerk of Court to close this adversary proceeding in accordance with the Clerk's usual procedures.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 6, 2021

Hearing Room 1545

11:00 AM

CONT... Armando Hernandez

Chapter 7

Debtor(s):

Armando Hernandez

Represented By
Michael Jay Berger

Defendant(s):

Erick Hernandez

Represented By
Andrew Edward Smyth

Joint Debtor(s):

Rita Hernandez

Represented By
Michael Jay Berger

Plaintiff(s):

Brad D. Krasnoff

Represented By
Rosendo Gonzalez

Trustee(s):

Brad D Krasnoff (TR)

Represented By
Rosendo Gonzalez

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 6, 2021

Hearing Room 1545

11:00 AM

2:20-15862 Jose Luis Almendariz
Adv#: 2:20-01644 McLees v. Almendariz

Chapter 13

#6.00 Cont'd Status Conference re: Complaint for Determination of Non-Dischargeability of Debt Pursuant to 11 U.S.C. Sections 523(a)(2) and (a)(4) fr. 12/22/20, 03/02/21

Docket 1

Tentative Ruling:

Tentative Ruling for 4/6/21:
Appearances required.

Current issues

(a) Status of mediation

The parties should be prepared to provide an update on the status/outcome of the second round of mediation.

This Court has reviewed the parties' joint status report (adv.dkt. 33) and the other filed documents and records in this adversary proceeding.

(A) Standard requirements

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (adv. dkt. 22).

(2) Mediation

On 12/21/20 this Court entered an order assigning the matter to mediation (see adv. dkt. 24).

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 6, 2021

Hearing Room 1545

11:00 AM

CONT... Jose Luis Almendariz

Chapter 13

(3) Deadlines

This adversary proceeding has been pending since 10/6/20.

[The deadlines have been memorialized in this Court's scheduling order (adv.dkt.26), except for the following, which need no written order.]

Joint Status Report: 6/1/21

Continued status conference: 6/15/21 at 11:00 a.m.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 3/2/21:

Continue as set forth below for the parties to participate in the mediation scheduled for 3/5/21. Appearances are not required on 3/2/21.

This Court has reviewed the parties' joint status report (adv.dkt. 32) and the other filed documents and records in this adversary proceeding.

(A) Standard requirements

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (adv. dkt. 22).

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 6, 2021

Hearing Room 1545

11:00 AM

CONT...

Jose Luis Almendariz

Chapter 13

(2) Mediation

On 12/21/20 this Court entered an order assigning the matter to mediation (see adv. dkt. 24).

(3) Deadlines

This adversary proceeding has been pending since 10/6/20. [The deadlines have been memorialized in this Court's scheduling order (adv.dkt.26), except for the following, which need no written order.]

Joint Status Report: 3/23/21

Continued status conference: 4/6/21 at 11:00 a.m.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 12/22/20:

Continue as set forth below. Appearances are not required on 12/22/20.

This Court has reviewed the parties' joint status report (adv.dkt. 22) and the other filed documents and records in this adversary proceeding.

(A) Standard requirements

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 6, 2021

Hearing Room 1545

11:00 AM

CONT...

Jose Luis Almendariz

Chapter 13

(1) Venue/jurisdiction/authority

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (dkt. 22).

(2) Mediation

At a hearing on 12/1/20, this Court set a deadline of 12/22/20 for the parties to lodge a proposed order assigning this matter to mediation.

(3) Deadlines

This adversary proceeding has been pending since 10/6/20. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Joinder of parties/amendment of pleadings: 6/1/21 deadline.

Discovery cutoff (for *completion* of discovery): 6/15/21.

Expert(s) - deadline for reports: 6/22/21

Expert(s) - discovery cutoff (if different from above): 6/29/21

Dispositive motions to be heard no later than: 8/17/21

Joint Status Report: 2/16/21

Continued status conference: 3/2/21 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers, including direct testimony by declaration unless excused: TBD

Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 6, 2021

Hearing Room 1545

11:00 AM

CONT... Jose Luis Almendariz

Chapter 13

Party Information

Debtor(s):

Jose Luis Almendariz

Represented By
Glenn Ward Calsada

Defendant(s):

Jose Luis Almendariz

Represented By
Glenn Ward Calsada

Plaintiff(s):

Brian McLees

Represented By
Dawn M Coulson

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 6, 2021

Hearing Room 1545

11:00 AM

2:20-17672 Liberors LLC

Chapter 7

Adv#: 2:20-01664 Rhodes v. Liberors LLC

#7.00 Cont'd Status Conference re: First Amended Complaint by Alexander Rhodes Against Debtor Liberors LLC to Determine Non-Dischargeability of Debt Pursuant to 11 U.S.C. Section 523(a)(6) fr. 1/26/21, 2/9/21, 03/02/21

Docket 2

***** VACATED *** REASON: Order dismissing adversary proceeding (adv. dkt. 15).**

Tentative Ruling:

Party Information

Debtor(s):

Liberors LLC

Represented By
Michael Jay Berger

Defendant(s):

Liberors LLC

Represented By
Carl Mueller
Michael Jay Berger

Plaintiff(s):

Alexander Rhodes

Represented By
Carl Mueller

Trustee(s):

Elissa Miller (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar

Tuesday, April 6, 2021

Hearing Room 1545

11:00 AM

2:20-17672 Liberors LLC

Chapter 7

#8.00 Cont'd hrg re: Motion for relief from stay [NA]
fr. 12/8/20, 2/9/21, 03/02/21

ALEXANDER RHODES
VS
DEBTOR

Docket 16

*** VACATED *** REASON: Withdrawal filed on 3/30/21 [dkt. 27]

Tentative Ruling:

Party Information

Debtor(s):

Liberors LLC

Represented By
Michael Jay Berger

Movant(s):

Alexander Rhodes

Represented By
Carl Mueller

Trustee(s):

Elissa Miller (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 6, 2021

Hearing Room 1545

11:00 AM

2:20-17525 Nicole R. Prause

Chapter 7

Adv#: 2:20-01662 Minc v. Prause

#9.00 Cont'd Status Conference re: Complaint for Monetary and Equitable Relief and Demand for a Jury Trial fr. 01/26/21, 2/9/21, 03/02/21

Docket 1

Tentative Ruling:

**Tentative Ruling for 4/6/21:
Appearances required.**

This Court continued the 3/2/21 hearing on this matter to allow the parties an opportunity to find a mediator. This Court set a deadline of 3/16/21 to file a mediation order (meanwhile, this mediation remains stayed, adv.dkt.10). The Court has reviewed Plaintiff's Notice of Status of Mediation (adv. dkt. 11). There is no tentative ruling, but the parties should be prepared to address the status of their efforts to locate a new mediator.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 6, 2021

Hearing Room 1545

11:00 AM

CONT... Nicole R. Prause

Chapter 7

Debtor(s):

Nicole R. Prause

Represented By
Michael Jay Berger

Defendant(s):

Nicole R. Prause

Represented By
Michael Jay Berger

Plaintiff(s):

Aaron M Minc

Pro Se

Trustee(s):

Elissa Miller (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 6, 2021

Hearing Room 1545

11:00 AM

2:20-17525 Nicole R. Prause

Chapter 7

Adv#: 2:20-01663 Rhodes v. Prause

#10.00 Cont'd Status Conference re: First Amended Complaint to Determine Non-Dischargeability of Debt Pursuant to 11 U.S.C. Section 523(a)(6) fr. 1/26/21, 2/9/21

Docket 2

***** VACATED *** REASON: Dismissed (adv. dkt. 16, and order thereon).**

Tentative Ruling:

Party Information

Debtor(s):

Nicole R. Prause

Represented By
Michael Jay Berger

Defendant(s):

Nicole R. Prause

Pro Se

Plaintiff(s):

Alexander Rhodes

Represented By
Carl Mueller

Trustee(s):

Elissa Miller (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 6, 2021

Hearing Room 1545

11:00 AM

2:20-17525 Nicole R. Prause

Chapter 7

#11.00 Cont'd hrg re: Motion for relief from stay [NA]
fr. 12/8/20, 2/9/21, 03/02/21

ALEXANDER RHODES
VS
DEBTOR

Docket 26

***** VACATED *** REASON: Withdrawal filed on 3/30/21 [dkt. 77]**

Tentative Ruling:

Party Information

Debtor(s):

Nicole R. Prause

Represented By
Michael Jay Berger

Movant(s):

Alexander Rhodes

Represented By
Carl Mueller

Trustee(s):

Elissa Miller (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 6, 2021

Hearing Room 1545

11:00 AM

2:15-23688 Boaz Tribelsky

Chapter 13

#12.00 Hrg re: Debtor's Second Renewed Motion for Order To Show Cause as to Why Specialized Loan Servicing LLC Should Not be Held in Contempt for Violation of Debtor's Discharge Injunction

Docket 140

Tentative Ruling:

Appearances required.

There is no tentative ruling. The parties should be prepared to address the issues raised in Debtor's motion (dkt. 140) and this Court's order setting this hearing (dkt. 142), including (a) whether they have met and conferred about a possible resolution of their dispute(s) and (b) whether this Court should (i) set a briefing schedule and an evidentiary hearing re contempt/sanctions, (ii) order the parties to mandatory mediation and/or (iii) order some other appropriate disposition.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Boaz Tribelsky

Represented By
Michael F Chekian

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 6, 2021

Hearing Room 1545

11:00 AM

CONT... Boaz Tribelsky

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 6, 2021

Hearing Room 1545

1:00 PM

2:19-18900 FAME Assistance Corporation, a Non Profit Corp.

Chapter 11

#1.00 Hrg re: Motion of Debtor for Order Approving Compromise and Settlement Between the Debtor and Apex Realty, Inc.,f and BRG Adams, LLC; (Collectively "The Apex Parties")

Docket 206

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 2, 4/6/21 at 1:00 p.m.).

Party Information

Debtor(s):

FAME Assistance Corporation, a

Represented By
Peter T Steinberg

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 6, 2021

Hearing Room 1545

1:00 PM

2:19-18900 FAME Assistance Corporation, a Non Profit Corp.

Chapter 11

#2.00 Cont'd Status Conference re: Chapter 11 Case
fr. 8/20/19, 9/24/19,10/29/19, 11/5/19, 12/17/19,
1/28/20, 03/31/20, 5/5/20, 6/16/20, 7/14/20, 9/15/20,
11/10/20, 12/1/20, 12/8/20, 12/17/20, 1/26/21, 03/02/21,
3/9/21

Docket 1

Tentative Ruling:

Tentative Ruling for 4/6/21:

Grant Debtor's settlement motion and dismiss this case with a 180-day bar, as set forth below. Appearances are not required on 4/6/21.

(1) Current issues

(a) Debtor's motion to approve settlement with Apex/BRG Parties (dkt. 206, 207), Hanmi Bank's response (dkt. 210), no opposition is on file

The tentative ruling is to grant the motion and, as contemplated therein, dismiss this case with a 180-day bar.

Proposed order: Debtor is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 7/31/19.

(a) Bar date: 10/25/19 (dkt. 24; timely served, dkt. 26). *Exception:* the bar date for creditors Apex/BRG has been extended (see dkt. 78, 138, 156)

(b) Procedures order: dkt. 2 (timely served, dkt.23).

(c) Plan/Disclosure Statement: N/A (per tentative ruling to dismiss this case).

(d) Continued status conference: N/A (per tentative ruling to dismiss this case).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 6, 2021

Hearing Room 1545

1:00 PM

CONT... FAME Assistance Corporation, a Non Profit Corp. Chapter 11

www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

FAME Assistance Corporation, a

Represented By
Peter T Steinberg

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 6, 2021

Hearing Room 1545

1:00 PM

2:19-24099 Jeremy Caleb Gardiner

Chapter 11

#3.00 Hrg re: First and Final Application by Resnik Hayes Moradi LLP, General Bankruptcy Counsel for the Debtor, for Allowance of Fees and Reimbursement of Costs for The Period December 3, 2019 Through February 19, 2021

Docket 122

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 4, 4/6/21 at 1:00 p.m.).

Party Information

Debtor(s):

Jeremy Caleb Gardiner

Represented By
Matthew D. Resnik
Roksana D. Moradi-Brovia

Movant(s):

Jeremy Caleb Gardiner

Represented By
Matthew D. Resnik
Matthew D. Resnik
Roksana D. Moradi-Brovia
Roksana D. Moradi-Brovia

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 6, 2021

Hearing Room 1545

1:00 PM

2:19-24099 Jeremy Caleb Gardiner

Chapter 11

#4.00 Status Conference re: Post confirmation
fr. 12/17/19, 1/28/20, 3/3/20, 5/12/20, 7/14/20,
9/1/20, 9/29/20, 10/6/20, 10/27/20, 11/10/20,
12/8/20, 2/9/21

Docket 6

Tentative Ruling:

Tentative Ruling for 4/6/21:

Continue the Status Conference as set forth below. Appearances are not required on 4/6/21.

(1) Current issues

(a) Resnik Hayes Moradi LLP first and final fee application (dkt. 122), "Application", declaration of Jeremy Caleb Gardiner (dkt. 122, p. 18), no opposition is on file

The tentative ruling is to grant the Application approving fees of \$50,487.00 and expenses of \$2,174.35 for a total award of \$52,661.35, and authorizing payment of \$40,161.35.

Proposed order: Debtor is directed to lodge a proposed order on the foregoing motion via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 12/2/19.

(a) Bar date: 2/17/20 (dkt. 22; timely served, dkt. 23)

(b) Procedures order: dkt. 5 (timely served, dkt. 9)

(c) Plan/Disclosure Statement (dkt. 99, 100)*: Plan confirmed (dkt. 114)

(d) Post-confirmation status conference: **5/4/21 at 1:00 p.m.** Written status report due **4/20/21**.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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CONT... Jeremy Caleb Gardiner

Chapter 11

www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Jeremy Caleb Gardiner

Represented By

Matthew D. Resnik

Roksana D. Moradi-Brovia

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2:21-10956 LAX In-Flite Services, LLC

Chapter 11

#5.00 Cont'd Status Conference re: Chapter 11 Case
fr. 02/25/21, 03/02/21

Docket 1

Tentative Ruling:

Tentative Ruling for 4/6/21:

Appearances required by counsel for Debtor.

(1) Current issues

(a) Budget motion (dkt. 37), no opposition is on file
The tentative ruling is to grant the motion.

Proposed order: Debtor is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(b) Affiliate reporting

Based on this Court's review of the supplemental declaration of Mark Berlin (dkt. 38), the tentative ruling is to excuse Debtor from this Court's requirement that it disclose all income, expenses, assets, and liabilities of its affiliates at this time, with the caveat that this Court might required such disclosures in future if appropriate.

(c) Insurance

Debtor's Monthly Operating Report ("MOR") for February 2021 (dkt. 40, p.1, In 9) states that Debtor has not timely paid all of its insurance premiums. Why not? Debtor is directed to appear to address what premiums have not been paid and what remedies this Court should impose to ensure property of the estate is being adequately protected.

(2) Dates/procedures. This case was filed on 2/5/21.

(a) Bar date: 4/16/21 per General Order 20-01 (70 days after petition date in Subchapter V cases) (DO NOT SERVE any notice: one has already been sent, see dkt.16).

(b) Procedures order: dkt.3 (timely served, dkt.9)

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(c) Plan/Disclosure Statement: file by 5/6/21 (DO NOT SERVE - except on the U.S. Trustee). See the **revised** "Procedures of Judge Bason" (available at www.cacb.uscourts.gov) (search for "Chapter 11: Plan").

(d) Continued status conference: 6/1/21 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 3/2/21:

Appearances required by counsel for Debtor and Debtor's principal.

(1) Current issues

(a) Budget motion

Debtor's status report states that a budget motion is not required by the presiding judge's procedures. Stat.Rpt. (dkt. 17), p.3. That is wrong (see posted "Procedures of Judge Bason," available at cacb.uscourts.gov).

Judge Bason recognizes that most transactions in the "ordinary course" do not require court approval. 11 U.S.C. 362(b)&(c). But debtors in bankruptcy have been known to misunderstand or mischaracterize what is "ordinary course." See generally *In re Dant & Russell, Inc.*, 853 F.2d 700, 703-06 & nn.4-7 (9th Cir. 1988) (horizontal and vertical tests for what is "ordinary course").

Judge Bason also recognizes that Debtor claims to be operating at a

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loss because of "the cost of doing business in California" and the COVID-19 pandemic. Stat.Rpt. (dkt.17), Addendum, p.1:21-24 (at PDF p.13). But, as Debtor discloses in its attorneys' employment application, it shares services with affiliates "including" (but perhaps not limited to) "shared marketing, customer service, accounting, and staffing." Dkt.13, p.3:2-3. In such situations there is a danger that, for example, Debtor could be unintentionally or intentionally over-paying for such services (measured by the horizontal or vertical test), possibly as a way of (i) transferring funds to affiliates without having to make equity distributions and (ii) reducing its reported income.

Such concerns about potential under-disclosure of Debtor's income (and value) are heightened because Debtor contemplates that insiders will purchase substantially all of Debtor's assets as a going concern, apparently without overbids. Debtor claims that its business only has value to insiders, and that "the costs of conducting an auction sale to third parties" would be too great. Stat.Rpt. (dkt.17), Addendum, p.2:2-9 (at PDF p.14).

To be clear, this Court makes no presumption that Debtor is actually engaging in any overpayments to affiliates, nor whether any transfers to affiliates would be improper in any way (e.g., some tax planning is entirely legal and appropriate). The point is only that, without disclosure, there is no way to know.

The tentative ruling is to set a **deadline of 3/9/21** for Debtor to file and serve its budget motion, together with whatever briefing and declaration(s) are necessary or appropriate to address the foregoing issues.

(b) Affiliate reporting

Debtor requests to be excused from this Court's requirement that it disclose all income, expenses, assets, and liabilities of its affiliates because it is part of a larger structure and requiring such disclosure would be expensive and burdensome. Dkt. 17, PDF p.14:19-22. But Debtor fails to provide any meaningful discussion of what "larger structure" Debtor refers to, who its affiliates are, or how creditors can have an understanding of Debtor's shared services with affiliates (such as accounting, marketing, etc.), without disclosure of affiliates' finances. Debtor is directed at the Status Conference to provide further detail about its corporate structure and why this Court's reporting requirements would be overly burdensome, relative to the benefits to creditors of the additional disclosures.

The tentative ruling is that on an interim basis only partial disclosure

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will be required, but such partial disclosure must provide parties in interest, including the Subchapter V Trustee, with adequate information to assess the costs and benefits of Debtor's transfers to and from affiliates. The tentative ruling is that if such partial disclosure is inadequate, then full disclosure will be required.

For example, it would be insufficient to disclose that Debtor contributes no net income to its family of affiliates while receiving benefits such as accounting services (preparation of tax returns). That hypothetical disclosure would paint a picture of Debtor receiving far more than it gives; but the hypothetical fails to disclose all transfers to affiliates, including payments for supplies, shared services, etc. Nor would such a hypothetical disclosure provide any sense of whether the accounting services provided to Debtor are greater or less than such services provided to affiliates (either in absolute terms, or relative to the size of affiliates' budgets). In sum, such a hypothetical disclosure would not provide adequate information for any cost/benefit assessment.

The tentative ruling is to set a **deadline of 3/23/21** for whatever briefing and declaration(s) are necessary or appropriate to address the foregoing issues.

(c) Apparent non-disclosure of affiliate transactions

As noted above, Debtor's shared services with affiliates were disclosed in the employment application of its bankruptcy counsel. This Court is concerned that associated disclosures were not made in other documents that appear to require such disclosures.

(i) No *prepetition* transfers reported in Statement Of Financial Affairs ("SOFA")

Questions 3, 4, and 30 of Debtor's SOFA (dkt.1, p.11, at PDF p.49) require disclosure of all transfers of anything of value to creditors (whether or not they are affiliates) within 90 days prepetition and all transfers to insiders (which includes affiliates) within one year prepetition. Debtor does not disclose any such transfers, despite Debtor's extensive shared services with its affiliates, and despite well over \$2 million owed to apparent affiliates with "Elite" in their name. See Bankruptcy Schedule E/F, dkt.1, p.6, at PDF p.26.

Is it really true that Debtor's affiliates provided millions of dollars of services over several years, but did not require any payments at all from Debtor during the year prepetition? If Debtor really was losing money at such

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a drastic rate, why did the affiliates continue to fund Debtor and why are they interested in purchasing Debtor's assets as a going concern?

(ii) No postpetition transfers reported in Status Reports

Similarly, despite the extensive shared services, Debtor's chapter 11 status report (dkt.17) asserts that Debtor has not made any postpetition transfers to insiders - which includes affiliates (11 U.S.C. 101(31)(E)). See Status Report (dkt.17), p.3, item B.3. Is that really true?

(iii) Postpetition loans, or equity contributions?

If Debtor's affiliates really have been subsidizing it postpetition, have they been extending credit to Debtor without notice and a hearing? See 11 U.S.C. 364. Alternatively, perhaps Debtor's affiliates have been making equity contributions rather than loans; but again that only heightens the concern that the affiliates' willingness to fund Debtor and purchase its assets as a going concern seems inconsistent with Debtor's assertion that it consistently operates at a loss.

In any event, neither any loans nor any equity contributions from affiliates are disclosed in the employment application of Debtor's proposed bankruptcy counsel. Why not?

(iv) Caveat

Again, this Court makes no presumptions regarding what actually has or has not occurred, or whether there is anything wrong with what Debtor and its affiliates and proposed bankruptcy counsel have done. On their face, Debtor's disclosures appear to show that its affiliates have been extraordinarily generous and forgiving when it comes to extending credit or equity contributions to Debtor, and perhaps a sale to affiliates is the only way to preserve jobs and maximize any recovery for creditors. But without further disclosures it is impossible to know if Debtor's representations are accurate.

(d) Funding of Debtor's proposed bankruptcy counsel by affiliates

The employment application of Debtor's counsel (dkt. 13, 14, 15) discloses such counsel received \$50,000 in funds from Debtor's 63% member and general unsecured creditor, Elite GG&K Associates, LLC ("Elite GGK"). Empl.App. (dkt. 13), pp.6:26-7:13. Although Debtor and its proposed counsel assert that the \$50,000 was a gift, there is no declaration from Elite GGK saying so, and verifying the other representations by Debtor's proposed counsel. In addition, Elite GGK has a prepetition claim of \$857,000.00. See Bankruptcy Schedule E/F (dkt.1), p.6 (at PDF p.26).

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As stated in the "Posted Procedures of Judge Bason" (available at www.cacb.uscourts.gov):

Retainer paid by third party. Declarations and/or briefs generally are required to address the ethical concerns involved whenever a retainer is paid by a third party. See Cal. Rule of Prof'l Conduct 1.8.6; *In re 9469 Beverly Crest, LLC* (Case No. 2:19-bk-20000-NB, dkt.44).

The tentative ruling is to set **a deadline of 3/9/21** for Debtor to file and serve whatever briefing and declaration(s) are necessary or appropriate to address the foregoing issues.

(2) Dates/procedures. This case was filed on 2/5/21.

- (a) Bar date: 4/16/21 per General Order 20-01 (70 days after petition date in Subchapter V cases) (DO NOT SERVE any notice: one has already been sent, see dkt.16).
- (b) Procedures order: dkt.3 (timely served, dkt.9)
- (c) Plan/Disclosure Statement: file by 5/6/21 (DO NOT SERVE - except on the U.S. Trustee). See the **revised** "Procedures of Judge Bason" (available at www.cacb.uscourts.gov) (search for "Chapter 11: Plan").
- (d) Continued status conference: 4/6/21 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

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Tentative Ruling for 2/25/21:

Appearances required by counsel for Debtor (pursuant to this Court's Procedures Order (dkt. 3), Debtor's principal is not required to appear at this Status Conference, but is required to appear at the status conference on 3/2/21 at 1:00 p.m.).

(1) Current issues

(a) Payroll motion (dkt. 19), order shortening time ("OST," dkt. 20), notice/proofs of service (dkt.22, 23)

On the one hand, service appears to be defective. On the other hand, subject to any opposition at the hearing, it appears that this Court can, and should, grant relief anyway.

(i) Defective service

As for service, the OST set this hearing on extremely short time - a hearing on 2/25/21 based on a telephonic request and motion on 2/22/21 - but in exchange Debtor was required to serve most creditors via overnight delivery, personal delivery, or other proper method of service, for receipt **no later than 2/23/21**. It appears that did not happen.

The proofs of service (dkt.22, 23) appear to show service on many creditors via U.S. mail, which is presumed to take 3 days (per Rule 9006(f), Fed. R. Bankr. P.) and therefore would arrive after the hearing. That is inadequate.

Many other creditors are shown as being served via email, and such service is ineffective absent consent (such as the consent provided by creditors who have agreed to be served via this Court's "NEF" system, by registering for CM/ECF privileges). The OST itself reminds litigants of that limitation. See dkt. 20, p.3 ("Service by electronic means (facsimile or email) requires compliance with F.R.Civ.P. 5(b)(2)(E)."); *and see* Rules 4(d) (waiving service) *and* 5(b)(2)(E) (regarding service via "electronic means that the person consented to in writing") (Fed. R. Civ. P.) (both incorporated by Rule 9014(b), Fed. R. Bankr. P.).

Moreover, although it is not entirely clear what Bankruptcy Rules apply to a payroll motion, some sort of "notice and a hearing" or opportunity for a hearing are almost universally required for any sort of motions in bankruptcy cases. See *generally* 11 U.S.C. 102(1). Traditionally, payroll motions usually are required to be served on the 20 largest unsecured creditors and other

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types of key creditors, as the OST provides.

(ii) Granting relief anyway

Despite the foregoing concerns, this Court recognizes that paying employees usually is critical, both (A) for the benefit of all parties with a stake in maintaining a debtor's going concern value and (B) in fairness to the employees who are providing their labor in reliance on the promise of payment. In addition, this Court is authorized and required, "at any time" and "with or without a hearing," to condition the use of any property of the bankruptcy estate on whatever terms are necessary to provide adequate protection of any interest in such property (11 U.S.C. 363(e)); and in this instance the tentative ruling is that Debtor, as a debtor in possession acting as a trustee for the benefit of creditors and all parties in interest, is requesting the authority to use estate funds in a way that is necessary to protect the interests of persons with an interest in the bankruptcy estate, by paying employees and maintaining Debtor's going concern value. Therefore the tentative ruling is that this Court is authorized, and indeed required, to grant the payroll motion at this time, without a hearing or further notice; but with a warning to Debtor and its counsel that this is a truly exceptional type of motion and that usually the failure to serve papers as required by an OST and/or any applicable rules would result in denial of a motion.

(2) Dates/procedures. This case was filed on 2/5/21.

- (a) Bar date: 4/16/21 per General Order 20-01 (70 days after petition date in Subchapter V cases) (DO NOT SERVE any notice: one has already been sent, see dkt.16).
- (b) Procedures order: dkt.3 (timely served, dkt.9)
- (c) Plan/Disclosure Statement: file by 5/6/21 (DO NOT SERVE - except on the U.S. Trustee). See the **revised** "Procedures of Judge Bason" (available at www.cacb.uscourts.gov) (search for "Chapter 11: Plan").
- (d) Continued status conference: 3/2/21 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you

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wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

LAX In-Flite Services, LLC

Represented By
Jeremy H Rothstein

Trustee(s):

John-Patrick McGinnis Fritz (TR)

Pro Se

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2:20-19443 Joshuaville, LLC

Chapter 11

#6.00 Cont'd Status Conference re: Chapter 11 Case
fr. 11/10/20, 12/22/20, 1/26/21, 03/02/21, 03/23/21

Docket 1

Tentative Ruling:

Tentative Ruling for 4/6/21:

Appearances required.

(1) Current issues

(a) Clarification of Debtor's Proposed Plan (dkt. 57)

Debtor is directed to clarify the treatment of class 3 claims. The Plan states:

Class 3 claims are impaired and will be paid their pro rata share of up to 100% of their allowed claim to be paid from Net Proceeds received from the Participation Agreement and/or proceeds from the sale of the Participation Agreement. If the Participation Agreement is not sold by the Effective Date, and no Net Proceeds have been received, the Debtor's Manager, Wayne Tsang, will fund \$10,000 to be paid on a pro-rata basis to Class 3 creditors resulting in a payout of between .09% and .14 % of their claims, depending on the outcome of the objection to the March Entities claim. [Plan (dkt. 57), section 4.01, at PDF p.6 (emphasis added).]

The above-quoted language might be read to mean that Debtor is proposing that the \$10,000 payment would be the only payment that class 3 claims will ever receive if as of the Effective Date there is no recovery from the Participation Agreement. Debtor is directed to confirm if, to the contrary, the \$10,000 payment would be intended as an interim payment until there is a recovery from the Participation Agreement?

(b) Revised Plan and service of voting package

The tentative ruling is to set a **deadline of 4/8/21** for Debtor to file a redlined version of the proposed Plan, incorporating any changes discussed at the hearing, and lodge a proposed order, substantially in the form of the order posted on Judge Bason's portion of the Court's website (www.cacb.uscourts.gov), authorizing the service of a voting package and

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CONT... Joshuaville, LLC

Chapter 11

setting a hearing on confirmation of the Plan concurrent with the continued Status Conference set forth below.

(2) Deadlines/dates. This case was filed, as a Subchapter V case, on 10/19/20.

- (a) Bar date: 12/28/20 per General Order 20-01 (70 days after petition date in Subchapter V cases) (DO NOT SERVE any notice: one has already been sent, see dkt.9).
- (b) Procedures order: dkt.4 (timely served, dkt.6).
- (c) Plan (dkt. 57): see above.
- (d) Continued status conference: At the 3/23/21 hearing, this Court set a continued status conference for 4/27/21 at 1:00 p.m. The tentative ruling is to vacate that hearing and set a continued status conference for 6/15/21 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

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[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Joshuaville, LLC

Represented By
Leslie A Cohen

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Chapter 11

Trustee(s):

Moriah Douglas Flahaut (TR)

Pro Se

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2:20-18370 New Hillcrest Inc., a Cayman Island Corporation

Chapter 11

#7.00 Cont'd Status Conference re: Chapter 11 Case
fr. 10/6/20, 12/1/20, 1/26/21, 3/2/21

Docket 1

Tentative Ruling:

Tentative Ruling for 4/6/21:

Continue as set forth below. Appearances are not required on 4/6/21.

(1) Current issues

(a) Status of sale efforts

As of the preparation of this tentative ruling the docket does not reflect any motion to approve any sale of Debtor's principal asset, as Debtor has been hoping. Nevertheless, it is possible that a sale might materialize, and meanwhile this Court wishes to avoid the expense of a hearing if no hearing is necessary, so the tentative ruling is to continue this Status Conference as provided below. The continued date is the last regularly scheduled hearing date before any foreclosure sale can occur under this Court's order (dkt.60) granting relief from the automatic stay to creditor Amit Tidhar.

(2) Deadlines/dates. This case was filed on 9/15/20.

(a) Bar date: 12/7/20 (dkt.23; timely served, dkt.25)

(b) Procedures order: dkt.4 (timely served, dkt.6, supplemented by dkt.21)

(c) Plan/Disclosure Statement*: file by 5/13/21 (dkt 64). See the **revised** "Procedures of Judge Bason" (available at www.cacb.uscourts.gov) (search for "Chapter 11: Plan").

(d) Continued status conference: 4/27/21 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

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CONT... New Hillcrest Inc., a Cayman Island Corporation Chapter 11

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[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

New Hillcrest Inc., a Cayman Island

Represented By
Brett Ramsaur

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2:20-14175 Tea Station Investment Inc.

Chapter 11

#8.00 Cont'd Status Conference re: Chapter 11 Case
fr. 7/28/20, 9/1/20, 9/15/20, 9/29/20, 12/22/20,
1/26/21, 3/9/21

Docket 15

Tentative Ruling:

Tentative Ruling for 4/6/21:

Appearances required.

(1) Current issues

(a) Unauthorized borrowing

This Court has reviewed the status report of the Subchapter V Trustee (dkt. 195) and is concerned about apparent postpetition borrowing that should not have been done without notice, a hearing, and an order of this Court approving such borrowing. See 11 U.S.C. 364; Rule 4001(c) (Fed. R. Bankr. P.). Debtors are directed to provide full disclosure at the hearing of what has occurred, and their position regarding whether any such borrowing is purportedly in the ordinary course or otherwise defensible.

(b) Discovery dispute regarding Claim 6

This Court has reviewed the joint statement of Debtors and Creditor Baodi Zhou regarding their discovery dispute (dkt.194). The tentative ruling is to set a briefing schedule regarding that dispute as follows: Zhou to file and serve a motion to compel (limited to the issues already set forth in the joint statement) by a **deadline of 4/8/21 at noon**; Debtors' response **due 4/14/21**; Zhou reply **due 4/20/21**; hearing contemporaneous with the continued hearing on the claim objection and the continued Status Conference (see below).

(2) Dates/procedures. This case was filed on 5/4/20 and converted from chapter 7 to chapter 11 on 7/1/20 (dkt.17). The petition was amended to elect Subchapter V on 7/14/20 (dkt.27). On 9/4/20 this Court ordered joint administration with affiliated debtors (dkt.64).

(a) Bar date: (i) Investment 9/9/20 (dkt. 40; timely served, dkt. 43);
Affiliated Debtors 11/10/20.

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Tea Station Investment Inc.

Chapter 11

- (b) Procedures order: dkt.18 (timely served, dkt.20) (also timely served in each jointly administered case).
- (c) Plan (dkt. 137): hearing TBD.
- (d) Continued status conference: 4/27/21 at 1:00 p.m. No written status report required.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Tea Station Investment Inc.

Represented By
Leslie A Cohen

Movant(s):

Tea Station Investment Inc.

Represented By
Leslie A Cohen
Leslie A Cohen

Trustee(s):

John-Patrick McGinnis Fritz (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 6, 2021

Hearing Room 1545

1:00 PM

2:20-12865 Migan Murray

Chapter 11

#9.00 Cont'd Status Conference re: Chapter 11 Case
fr. 6/2/20, 7/28/20, 9/1/20, 10/6/20, 12/8/20, 2/9/21,
03/02/21

Docket 56

Tentative Ruling:

Tentative Ruling for 4/6/21:

Appearances required.

(1) Current issues

(a) Debtor's Motion to Extend Time to File Case Opening Documents
(dk. 158)

There is no tentative ruling, but Debtor is directed to address what steps she has taken to find a new bankruptcy attorney, and whether her finances will improve enough to support a plan of reorganization.

(b) Debtor's Monthly Operating Report ("MOR") (#11, 2/21) (dk.157)

First, the United States Trustee ("UST") is requested to address whether Debtor's apparent combination of multiple accounts into one MOR is adequate. Second, this Court notes that Debtor reports a decrease from a beginning balance of \$1,794.69 to an ending balance of \$1,194.68 (dk.157, p.1), and such losses are not sustainable. Third, the MOR reports that insurance coverage on two vehicles expired on 2/26/21 and 2/28/21 (dk.157, p.4) - is that so, and if so, should this case be dismissed or converted on that basis? If insurance has not expired, and if it is month-to-month, why is it not possible to include information about those things in the MORs? Fourth, Debtor reports \$15,116.07 in unpaid adequate protection payments (*id.*) - again, should this case be dismissed or converted?

(2) Deadlines/dates. This case was filed on 3/13/20 and converted from chapter 13 on 4/23/20 (dk. 45).

(a) Bar date: 6/8/20 (dk. 58; timely served, dk. 60).

(b) Procedures order: dk. 56 (timely served, dk. 61)

(c) Plan/Disclosure Statement: See the **revised** "Procedures of Judge Bason" (available at www.cacb.uscourts.gov) (search for

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Chapter 11

"Chapter 11: Plan").

Note: Debtor has filed a written motion (dkt. 158) to extend the deadline to file a plan from 3/26/21 to 5/26/21. The actual deadline will depend on whether that motion is granted.

(d) Continued status conference: *If* this case is not dismissed or converted, 5/4/21 at 1:00 p.m. No written status report required.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 3/2/21:

Appearances required.

(1) Current issues

(a) Motion of U.S. Trustee ("UST") to dismiss or convert ("MTD," dkt. 132), Debtor's Opposition (dkt. 142), UST's Reply (dkt. 146), response of Secured Creditors Hillegass *et al.* ("Secured Creditor") in Support of MTD (dkt. 147).

Grant in part by issuing a continuing compliance order. The sole ground for the UST's MTD is failure to file MORs, and Debtor has now (very belatedly) filed the missing MORs. (Note: This relief will be mooted if, as provided in the tentative ruling below, this case is dismissed or converted anyway.)

Proposed order: If this motion is not mooted, the UST is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

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Chapter 11

(b) Other cause for dismissal (or alternate remedies)

Under this Court's order establishing procedures at the commencement of this case (dkt. 56, timely served, dkt. 61), this Court may dismiss or convert this case at any status conference. The tentative ruling is to dismiss or convert this case based on (i) Debtor's late-filing of numerous MORs, (ii) Debtor's failure to make certain adequate protection payments to Secured Creditor, and (iii) Debtor's failure to make numerous other payments to creditors, in the admitted aggregate amount of \$15,253.41, according to her MORs. See MOR for Jan. 2021 (dkt.141), p.4 (at PDF p.3).

The parties are directed to address whether dismissal or conversion is in the best interests of all parties, including Debtor. The tentative ruling is that any dismissal would not entail a bar under 11 U.S.C. 109(g)(1), because on balance the preponderance of the evidence appears to be that Debtor's trouble prosecuting this case and her prior case are based on financial troubles, rather than willfulness.

Proposed order: If this Court adopts the tentative ruling to dismiss or convert, the UST is directed to lodge a proposed order via LOU within 7 days after the hearing date and attach a copy of this tentative ruling, thereby incorporating it as the final ruling, subject to any modifications at the hearing. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 3/13/20 and converted from chapter 13 on 4/23/20 (dkt. 45).

(a) Bar date: 6/8/20 (dkt. 58; timely served, dkt. 60).

(b) Procedures order: dkt. 56 (timely served, dkt. 61)

(c) Plan/Disclosure Statement: *If* this case is not dismissed or converted, file by 3/26/21 (DO NOT SERVE - except on the U.S. Trustee). See the **revised** "Procedures of Judge Bason" (available at www.cacb.uscourts.gov) (search for "Chapter 11: Plan").

(d) Continued status conference: *If* this case is not dismissed or converted, 4/6/21 at 1:00 p.m. No written status report required.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

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CONT...

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are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Migan Murray

Pro Se

**United States Bankruptcy Court
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Hearing Room 1545

1:00 PM

2:20-12865 Migam Murray

Chapter 11

#9.10 Hrg re: Motion to Extend Time to File Disclosure Statement and Plan

Docket 158

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 9, 4/6/21 at 1:00 p.m.).

Party Information

Debtor(s):

Migam Murray

Pro Se

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Tuesday, April 6, 2021

Hearing Room 1545

1:00 PM

2:20-10357 Reijo Kustaa Myllyla

Chapter 11

#10.00 Cont'd Status Conference re: Chapter 11 Case
fr. 02/04/20, 02/18/20, 3/3/20, 4/7/20, 5/12/20,
6/16/20, 7/14/20, 9/1/20, 10/6/20, 11/20/20,
12/22/20, 1/26/21

Docket 6

***** VACATED *** REASON: Cont'd to 6/15/21 at 1:00 p.m. [dkt. 68]**

Tentative Ruling:

Party Information

Debtor(s):

Reijo Kustaa Myllyla

Represented By
Byron Z Moldo

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Hearing Room 1545

1:00 PM

2:21-10368 Mrudula Kothari

Chapter 11

#11.00 Cont'd Status Conference re: Chapter 11 Case
fr. 2/9/21, 03/02/21

Docket 1

Tentative Ruling:

Tentative Ruling for 4/6/21:

Continue as set forth below. Appearances are not required on 4/6/21.

(1) Current issues

This Court has no issues to raise *sua sponte* at this time.

(2) Dates/procedures. This case was filed on 1/19/21 .

(a) Bar date: 3/30/21 per General Order 20-01 (70 days after petition date in Subchapter V cases) (DO NOT SERVE any notice: one has already been sent, see dkt. 11).

(b) Procedures order: dkt. 8 (timely served, dkt. 12)

(c) Plan/Disclosure Statement: file by 4/16/21 (DO NOT SERVE - except on the U.S. Trustee). See the **revised** "Procedures of Judge Bason" (available at www.cacb.uscourts.gov) (search for "Chapter 11: Plan").

(d) Continued status conference: 4/27/21 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the

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CONT... Mrudula Kothari

Chapter 11

first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Mrudula Kothari

Represented By
Stella A Havkin

Trustee(s):

Susan K Seflin (TR)

Pro Se

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Hearing Room 1545

1:00 PM

2:19-20000 9469 BEVERLY CREST LLC

Chapter 11

#12.00 Cont'd Status Conference re: Chapter 11 Case
fr. 9/24/19, 11/5/19, 12/10/19, 1/28/20, 03/31/20,
4/7/20, 6/2/20, 8/4/20, 10/6/20, 12/1/20, 12/22/20,
2/9/21, 3/9/21

Docket 1

Tentative Ruling:

Tentative Ruling for 4/6/21:

Dismiss this case. Appearances are not required.

(1) Current issues

Debtor's February Monthly Operating Report states that secured creditor NVSI foreclosed on its collateral (essentially Debtor's only asset) in February 2021 (dkt. 155, p.11), so it appears there is no longer any purpose for Debtor to remain in bankruptcy. The tentative ruling is (i) to direct Debtor to pay any outstanding UST fees (see MOR, dkt.155, p.12, listing \$50.09 owed), and retain jurisdiction to enforce that order, (ii) not to impose any other conditions on dismissal (unless a party in interest seeks conditions pursuant to 11 U.S.C. 349 or other applicable law), and (ii) to dismiss this case (while retaining limited jurisdiction as provided in the LBR) without further notice or a hearing, pursuant to this Court's order at the inception of this case (served on all parties in interest), providing notice that this Court may take case-dispositive acts at any status conference. See Order (dkt. 11) (timely served, dkt. 24).

(2) Deadlines/dates. This case was filed on 8/26/19.

(a) Bar date: 11/25/19 (dkt. 29; timely served, dkt. 31).

(b) Procedures order: dkt. 11 (timely served, dkt. 24)

(c) Plan/Disclosure Statement*: N/A.

(d) Continued status conference: *If* this case is not dismissed, the tentative ruling is to set a continued status conference on 6/1/21 at 1:00 p.m. In that event, no written status report required.

*Warning: special procedures apply (see order setting initial status conference).

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CONT... 9469 BEVERLY CREST LLC

Chapter 11

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

9469 BEVERLY CREST LLC

Represented By
John N Tedford IV
George E Schulman

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Tuesday, April 6, 2021

Hearing Room 1545

1:00 PM

2:20-15954 John Martin Kennedy

Chapter 11

#13.00 Combined hrg re: Approval of Disclosure
Statement and Confirmation of Plan

Docket 230

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 14,
4/6/21 at 1:00 p.m.).

Party Information

Debtor(s):

John Martin Kennedy

Represented By
Sandford L. Frey
Dennette A Mulvaney

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Hearing Room 1545

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2:20-15954 John Martin Kennedy

Chapter 11

#14.00 Cont'd Status Conference re: Chapter 11 Case
fr. 7/14/20, 7/28/20, 8/18/20, 9/15/20, 9/29/20,
10/27/20, 11/10/20, 12/1/20, 12/8/20, 12/22/20,
01/26/21,3/23/21

Docket 1

Tentative Ruling:

Tentative Ruling for 4/6/21:

Appearances required.

(1) Current issues

(a) Motion of Yunuen Campos for stay pending appeal (dkt. 280, the "Stay Motion"), application for hearing on shortened time (dkt. 279, "Application for OST"), Order shortening time (dkt. 288, "OST"), Notice of hearing (dkt. 291) & proof of service (dkt. 292), Debtor's opposition to Application for OST (dkt. 293)

Subject to oral argument at the hearing, the tentative ruling is to grant a stay during appellate proceedings before the Bankruptcy Appellate Panel for the Ninth Circuit (the "BAP"), but only impose any such stay *after* any ruling on whether or not to confirm Debtor's proposed chapter 11 Plan.

The reasons are:

(i) although it appears to this Court that Ms. Campos is unlikely to succeed on the merits of her pending appeal or any future appeal from any confirmation order, nevertheless the legal questions she raises are serious and the facts and circumstances presented are unique in this Court's experience;

(ii) although it is unclear whether Ms. Campos would suffer any harm, let alone irreparable harm -- and to the contrary she would appear to benefit if this Court were to confirm Debtor's proposed Plan and she were to start receiving payments from Debtor -- nevertheless it is conceivable that any confirmation order might have a preclusive effect, and thereby limit the dollar amount of her claim if these proceedings were not stayed, and that issue has not been briefed nor is it clear that this Court could determine the preclusive effect of its own orders, so it is conceivable that Ms. Campos would suffer

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irreparable harm absent a stay, and the dollar amounts are very large so the potential prejudice to Ms. Campos is substantial;

(iii) on the one hand, it is true that if any confirmation order is stayed then other parties in interest will be delayed in receiving payments under the proposed Plan, but on the other hand it appears that any delay will probably not be very long given the pace of proceedings before the BAP, both in this case and in general;

(iv) the public interest does not appear to cut either way.

The tentative ruling is that the stay would only last through the conclusion of proceedings before the BAP, not any subsequent appeals (which could take long enough to cause substantial prejudice to Debtor and other parties).

In addition, the tentative ruling is that this Court would reserve jurisdiction and authority to terminate any stay at any future time (e.g., if proceedings before the BAP were to turn out to be protracted for any reason, and if the resulting delay were long enough to cause significant prejudice to Debtor and other parties in interest). But, of course, all of the foregoing is subject to any appellate court's authority to grant a stay pending appeal, or other relief.

(b) Debtor's amended chapter 11 plan of reorganization & disclosure statement (dkt. 250, 251, 265 "Plan") & disclosure statement (251, "DS"), related Orders (dkt. 247, 255), Opposition of Yunuen Campos (dkt. 272), Proof of service of voting package (dkt. 281), Ballot summary/analysis (dkt. 282, 283), Debtor's reply (dkt. 284, 287) & supporting declarations (dkt. 285, 286), related Memorandum Decision (dkt. 121) and interim Order (dkt. 144) re assumption of Mediation Term Sheet (dkt.251, Ex.D, at PDF pp.54-56), Debtor's notice re same (dkt. 227), notice of appeal (dkt. 147), and claim objection Order (dkt. 277) (sustaining Debtor's objection to Ms. Campos' claim above dollar amount in Mediation Term Sheet)

The tentative ruling is to overrule Ms. Campos' objections, confirm the Plan and approve the Disclosure Statement on a final basis for the reasons set forth below.

(i) Impairment

The tentative ruling is to overrule Ms. Campos' objection that the Plan improperly characterizes her claim as unimpaired because Debtor argues persuasively that the whole concept of impairment does not apply to Ms.

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Campos' claim. The Meditation Term Sheet is an assumable executory contract that need not be classified under the Plan, and the fact that Debtor has opted to label the claim as if it were classified (as a precautionary measure) does not create voting rights where none exist under the Bankruptcy Code. See Reply (dkt. 284) p. 8:25-27.

Additionally and alternatively, the tentative ruling is that if Ms. Campos' claim were required to be classified, the Plan's separate classification of her claim is proper and her claim is not impaired for the reasons stated in Debtor's reply papers (dkt. 284, pp.9:3-14:18).

Additionally and alternatively, the tentative ruling is that even if Ms. Campos' claim is impaired, and even if the requirements of cramdown under 11 U.S.C. 1129(b) were to apply, the Plan can be confirmed because it meets all the requirements of 11 U.S.C. 1129(a) (as set forth below) and the Plan does not unfairly discriminate and is fair and equitable with respect to Ms. Campos' claim. The amended Plan provides for Ms. Campos to receive everything to which she is entitled to under the Mediation Term Sheet. See Reply (dkt. 284) pp.14:19-17:1, and Declaration of Samiel R. Biggs (dkt. 285) p.3:4-18.

(ii) Good faith

The tentative ruling is that Ms. Campos' arguments under the good faith test of 11 U.S.C. 1129(a)(3) are not persuasive.

(A) Legal standards

On the one hand, the statute is not a general inquiry into whether everything a debtor has ever done was in good faith. By its terms, section 1129(a)(3) only addresses whether a chapter 11 plan is "proposed" in good faith. *In re Garvin*, 922 F.3d 1031 (9th Cir. 2019).

On the other hand, if there were to be any abuse of the bankruptcy process, that could establish that the plan has not been proposed in good faith. See, e.g., *In re Sylmar Plaza*, 314 F.3d 1070, 1074 (9th Cir. 2002) (cited in *Garvin*, 922 F.3d 1031, 1036 n.3). Therefore this Court agrees with Ms. Campos to the following limited extent: Debtor's prepetition acts are relevant, as part of the "totality of circumstances" that this Court must consider in evaluating whether the Plan has been proposed in good faith. See Obj. (dkt. 272), pp. 12:5-14:14.

(B) The parties' long and contentious disputes do not establish a lack of good faith

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The tentative ruling is that Ms. Campos is off the mark in asserting that a lack of good faith is established by the history of the parties' disputes. True, there was an underlying judgment for sexual battery (and attorney fees), and Debtor has vigorously defended himself including appeals and prior bankruptcy cases. But, for three reasons that is not persuasive evidence of any lack of good faith.

First, in general parties are entitled to fight vigorously to defend their position (provided they do not overstep the ethical and legal limitations, such as Rule 9011, Fed. R. Bankr. P.). There is no evidence that Debtor has overstepped those bounds.

Second, supposing for the sake of discussion that there were such evidence (which there is not), even a wrongdoer can "propose" a chapter 11 plan in "good faith." An attempt to pay debts over time, even (or especially) if those debts are based on wrongdoing, is the essence of a chapter 11 bankruptcy case.

Third, Ms. Campos voluntarily entered into a settlement with Debtor, and Debtor's Plan simply proposes to enforce that settlement by the only means apparently available to him: the power to assume that settlement in bankruptcy (using his proposed Plan). It is legitimate to use 11 U.S.C. 365 to cure defaults that might not be curable outside of bankruptcy - e.g., the ability to cure payments that were due months ago. There is no lack of good faith in using the provisions of the Bankruptcy Code to hold Ms. Campos to the deal to which she agreed.

(C) Paying Mr. Fuller less than 100% of the purchase price for his claims, before knowing if this Court will confirm the proposed Plan, is not a lack of good faith

Ms. Campos has not established any lack of good faith in Debtor's decision to risk paying only part of what is required for him to purchase Mr. Fuller's claims (which he is purchasing so as to moot or satisfy the condition that Mr. Fuller's claims against Ms. Campos be resolved, as part of the parties' Mediation Term Sheet). See Obj. (dkt. 272), pp. 14:15-15:22. Debtor is entitled not to risk everything all at once, by paying even more to Mr. Fuller than he already has, prior to confirmation of the Plan.

In addition, as Debtor points out, there is no evidence of any attempt to "gerrymander" a consenting impaired class. If Ms. Campos were to be classified with other claims, Debtor still would have at least one requisite consenting impaired class, and thereby would satisfy 11 U.S.C. 1129(a)(10)

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and (b).

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(iii) Feasibility

The tentative ruling is to reject Ms. Campos' argument that the Plan is not feasible, which is based on the risk that this Court's prior rulings might be reversed. See Obj. (dkt. 272), pp. 15:23-16:13. As she concedes, the issue is whether confirmation is "likely" to be followed by liquidation or the need for further financial reorganization (11 U.S.C. 1129(a)(10), emphasis added), and all that is required is for Debtor to show that the Plan has a "reasonable prospect of success and is workable." *Id.* (quoting *In re Pizza of Hawaii, Inc.*, 761 F.2d 1374, 1382 (9th Cir. 1985) (emphasis added, internal quotation marks omitted)).

The tentative ruling is that Debtor has met this test. This Court recognizes that reversal is always a possibility, and is very much aware that assumption of the Mediation Term Sheet involves interesting questions of law. But Debtor has established that confirmation of the Plan would not "likely" be followed by the need for liquidation or further financial reorganization, for the same reasons that this Court found persuasive in the Memorandum Decision (dkt. 121) and interim Order (dkt. 144) regarding assumption of the parties' Mediation Term Sheet. Ms. Campos has not rebutted that showing.

(iv) Assumption of the Mediation Term Sheet

Ms. Campos argues that five conditions to assumption have not been met. See Obj. (dkt. 272), pp. 16:14-17:9. Taking each one in turn:

(A) Life insurance. Section "7" of the Mediation Term Sheet (dkt.251, Ex.D, at PDF pp.55) requires that Debtor obtain life insurance in a dollar amount equal to 120% of the Settlement Sum (as defined therein). The Plan proposes that Debtor will obtain such insurance on the Effective Date or "as soon as practicable thereafter." See Plan, Ex.B to Art.I (dkt.251), Part "B" under "Class 2A," at PDF pp.43-44 (emphasis added).

The tentative ruling is that Debtor's proposal to obtain insurance after confirmation is insufficient. True, it is arguably within the requirement that he "promptly" cure defaults under 11 U.S.C. 365(b)(1)(A) (incorporated by 1123(b)(2)). But the tentative ruling is that, for "good faith," "feasibility," and (if applicable) the "fair and equitable" test (11 U.S.C. 1129(a)(3), (a)(11) & (b)), it is appropriate to require that Debtor obtain insurance prior to

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confirming the Plan. Accordingly, the tentative ruling is that entry of any confirmation order will be conditioned on Debtor filing a declaration with evidence of the required life insurance.

(B) Mutual release. Section "12" of the Mediation Term Sheet provides, "Except for obligations under the settlement agreement, the parties will trade mutual releases." See Mediation Term Sheet (dkt.251, Ex.D), at PDF p.56. Exhibit B to the Amended Plan contains Debtor's release of Ms. Campos (dkt. 250, Ex. B, Section B (Class 2A), at PDF pp.44-45). Ms. Campos does not raise any objection to the language of Debtor's proposed of release. But she appears to contemplate that she will not execute any mutual release.

The tentative ruling is that Ms. Campos need not execute any release because Debtor will be automatically released through the chapter 11 discharge and Debtor's Plan provides his release to Ms. Campos. In other words, if the Plan is confirmed and becomes effective, and if the confirmation order becomes a final order, then there will be mutual releases.

True, Debtor's release of Ms. Campos is not effective until her appeal(s) are finally resolved. But she cannot have it both ways.

If the order(s) confirming the Plan and approving assumption of the Mediation Term Sheet were to be reversed then Debtor would not qualify for a discharge under 11 U.S.C. 1141(d)(5), so it would be inappropriate for Ms. Campos to obtain a release from Debtor. Conversely, if that order becomes a final order then Debtor's release of Ms. Campos becomes effective. The tentative ruling is that Ms. Campos has not shown how this is improper, or any barrier to confirmation of the Plan.

(C) Mutual nondisparagement. Section "8" of the Mediation Term Sheet requires "reasonable, mutual non-disparagement" terms. Ms. Campos did not argue in connection with Debtor's motion to assume the Mediation Term Sheet that it is impossible to know what this means; nor is this Court aware of any reason to suppose that the parties intended anything other than standard non-disparagement terms.

The tentative ruling is that entry of any confirmation order will be conditioned on Debtor and Ms. Jayanna Howerton submitting reasonable proposed mutual non-disparagement terms. The tentative ruling is to provide Ms. Campos with a brief period in which to file and serve any objection she might have to such terms, and after any objection is resolved then those terms, like all the other terms of the Plan, will "bind" both Debtor and Ms.

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Campos pursuant to 11 U.S.C. 1141(a).

(D) Cure of prior payments. Section "1" of the Mediation Term Sheet (dkt.251, Ex.D, at PDF p.55) provides a schedule of payments, starting "upon dismissal of the debtor's [prior] Chapter 13 bankruptcy case ... following receipt of funds by the Chapter 13 trustee" and then on "the first calendar day" of every month following the dismissal of that prior bankruptcy case. A condition for assumption of any executory contract is to cure, or provide adequate assurance that the debtor in possession "will promptly cure," any payment defaults. 11 U.S.C. 365(b)(1)(A) (incorporated by 1123(b)(2)), 1101(1), 1107.

The tentative ruling is that Debtor is entitled to set off any outstanding amounts Ms. Campos received pre-petition or that Ms. Campos owes under the Fuller Judgment(s) against any outstanding payments owing under the Mediation Term Sheet, and that this plus his proposed schedule to cure the balance satisfies the requirement to "promptly cure" the default. The tentative ruling is that Debtor has provided evidence establishing adequate assurance of his ability to do those things. See Dkt. 251, Ex. J&K.

(E) Nondischargeability. Section "6" of the Mediation Term Sheet provides that Debtor's "obligation to pay the Settlement Sum shall remain non-dischargeable" and "[s]imilarly, the Judgment including all attorneys' fees and costs shall remain non-dischargeable." This appears to resolve any issues of nondischargeability. But Ms. Campos argues, without explanation or citation, that "[n]ondischargeability must be determined before confirmation." Ms. Campos appears to mean that the issues currently pending before Judge Robles (in proceedings in Debtor's previously-filed chapter 7 case) must be litigated to a final judgment. The tentative ruling is that this disregards the Mediation Term Sheet, which supersedes the need to litigate any other nondischargeability issues.

Alternatively, to the extent that there could be any ambiguity in the scope of the Mediation Term Sheet's nondischargeability provisions, the tentative ruling is that this Court need not and should not issue advisory rulings on the scope of those provisions. Put differently, confirmation of a proposed plan is different from the scope of any discharge, and this Court is not aware of any authority that rulings on the latter must precede the former. To the contrary, it is common for various issues such as claim objections, nondischargeability actions, and other matters to be litigated post-confirmation. So if those things were still relevant (which it appears they are

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not) they can be litigated post-confirmation.

(v) Debtor's Plan Modification (dkt. 265) does not require more disclosure and re-balloting

Debtor's proposed Modification notes several new developments since this Court's approval of Debtor's Disclosure Statement; but he argues that no changes to the Disclosure Statement are required, and re-balloting is not required. Debtor has served his proposed Modification on all creditors, and it lists the confirmation hearing date in the caption. See Modification (dkt. 265).

Only Ms. Campos has filed any response. She argues that a new disclosure statement and balloting are required due to a change in the terms by which Debtor agrees to purchase Mr. Fuller's judgments against Ms. Campos. See Obj. (dkt. 272), pp. 17:10-18:2. The tentative ruling is that Ms. Campos has not established any reason why re-service and re-balloting are required.

Under 11 U.S.C. 1125(a)(1), "adequate information" for purposes of Debtor's Disclosure Statement means information "of a kind, and in sufficient detail, as far as is reasonably practicable in light of the nature and history of the debtor ... that would enable [a] hypothetical investor of the relevant class to make an informed judgment about the plan ... [and] in determining whether a disclosure statement provides adequate information, the court shall consider the complexity of the case, the benefit of additional information to creditors and other parties in interest, and the cost of providing additional information." (Emphasis added.) Under Rule 3019(a) (Fed. R. Bankr. P.), if this Court finds, after notice to any trustee (*i.e.*, Debtor as debtor in possession), any committee (there is none), and "any other entity designated by the court" that "the proposed modification does not adversely change the treatment of the claim of any creditor ... who has not accepted in writing the modification, it shall be deemed accepted by all creditors ... who have previously accepted the plan." (Emphasis added.)

The tentative ruling is that Ms. Campos has not established that Debtor's minor changes in his deal with Mr. Fuller warrant more disclosure or re-balloting. Nor has she established any adverse change in the treatment of her claim (or, for that matter, any other claim).

(vi) Conclusion

For the foregoing reasons, the tentative ruling is (x) to overrule Ms.

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Campos' objections, (y) to approve the adequacy of the amended Disclosure Statement on a final basis, and (z) to confirm the amended Plan, subject to Debtor filing and serving on Ms. Campos his evidence of life insurance and proposed non-disparagement terms, after which Ms. Campos would have seven calendar days to file and serve her objections to those things. If any such objections are filed, this Court would determine whether further briefing and a hearing are required. Once all such issues are resolved, this Court would issue order(s) confirming the Plan and authorizing assumption of the Mediation Term Sheet (probably as a single order), subject only to any stay pending appeal as set forth at the start of this tentative ruling.

(2) Deadlines/dates. This case was filed on 6/30/20.

(a) Bar date: 10/2/20 (dkt. 39) (timely served, dkt. 52)

(b) Procedures order: dkt.4 (timely served, dkt.18).

(c) Plan (dkt. 250)/Disclosure Statement* (dkt. 230): see above

(d) Post-confirmation status conference: 4/27/21 at 1:00 p.m., concurrent with other matters. No status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

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Debtor(s):

John Martin Kennedy

Represented By
Sandford L. Frey
Dennette A Mulvaney

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#14.10 Hrg re: Motion for entry of an order
granting a limited stay pending appeal

Docket 280

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 14,
4/6/21 at 1:00 p.m.).

Party Information

Debtor(s):

John Martin Kennedy

Represented By
Sandford L. Frey
Dennette A Mulvaney

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#15.00 Cont'd hrg re: Motion for relief from stay [UD]
1/26/21, 2/9/21, 03/23/21

MOSS ATKINSON FAMILY TRUST
VS
DEBTOR

Docket 30

Tentative Ruling:

Tentative Ruling for 4/6/21:

Please see the tentative ruling for the Status Conference (Calendar No. 16, 4/6/21 at 1:00 p.m.).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

VEEJ Corp

Represented By
Jeffrey S Shinbrot

Movant(s):

Moss Atkinson Family Trust

Represented By
Giovanni Orantes

Trustee(s):

Susan K Seflin (TR)

Pro Se

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#15.10 Cont'd Status Conference re: Chapter 11 Case
fr. 1/5/21, 1/26/21, 03/02/21, 3/23/21

Docket 1

Tentative Ruling:

Tentative Ruling for 4/6/21:

Appearances required by counsel for the debtor.

(1) Current issues

(a) Motion of Moss Atkinson Family Trust ("Lessor") for Relief from Stay (dkt. 30), Debtor's Opposition (dkt. 45), Lessor's Reply (dkt. 50)

The Court has continued the hearing on Lessor's motion from 1/26/21 to 2/9/21, 3/2/21, 3/23/21, and now this current hearing, based on the stipulations filed by the parties. See dks. 53, 57, 63, 69. There is no tentative ruling, but the parties should be prepared to discuss the status of their negotiations regarding the premises at 24901 W. Avenue Stanford, in Valencia, California (the "Premises").

(b) Debtors' proposed Plan (dkt. 68)

The tentative ruling is to address the following issues with Debtor's counsel and set a deadline to file an amended proposed Plan. The issues to be addressed are:

(i) Background

Based solely on Debtor's bankruptcy schedules, Debtor appears solvent. Total assets are listed at \$1,036,013.07 and total claims at \$980,585.66. But, as set forth below, that appears to be inaccurate.

As for assets, Debtor's bankruptcy Schedule A/B lists \$934,283.07 in accounts receivable, with no deduction for doubtful or uncollectible accounts, despite the fact that those accounts are listed as being over 90 days old. Debtor's only other listed assets are \$1,730.00 in the bank and a claim against Lessor estimated at \$100,000.00.

As for liabilities, Debtor apparently has two secured claims aggregating just under \$90,000 or just under \$140,000 - it is unclear which. See Plan

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(dkt. 68), p. 16 (\$79,404.04 + \$9,625.68 = \$89,029.72 secured claims) *and compare id.* at p. 31:12 (\$139,039 secured claims). Bankruptcy Schedule E/F lists \$934,073.07 in unsecured claims, and the Plan lists \$1,068,892.00. The principal unsecured claims listed on Schedule E/F include over \$500,000.00 in unpaid shipping charges and, in line 3.3, Lessor's claim at \$398,686.20 (purportedly without offset, although that appears to be inconsistent with the alleged \$100,000.00 claim against Lessor and the Plan lists Lessor's claim at \$541,474.20, which is disputed by Debtor).

As this Court understands Debtor's background, its business previously included storage at the Premises of tens of thousands of original motion picture "films in the can," weighing approximately 50 pounds each, which major film studios entrusted to Debtor. The Premises allegedly have unique and special qualities for that purpose. There is no explanation whether Debtor is still engaged in other lines of business, or the possible value of any such ongoing businesses, by the Plan implies that there is no such value, and the Plan proposes to liquidate Debtor.

Debtor's bankruptcy Schedule G lists no executory contracts for storage of the films, so apparently Debtor has spun off that business. In 2019 Debtor formed HFC Media Services Corporation ("Affiliate"), which promised to take over all obligations under the lease of the Premises including back rent (for an estimated total obligation of \$935,283.07) in exchange for a license to use the Premises, the right to Debtor's security deposit of \$395,855.80, \$70,000 in cash, and, apparently, approximately \$395,885.80 of accounts receivable transferred to it by Debtor. Under Affiliate's Agreement with Debtor, if rights to the Premises are terminated or lost then Affiliate is obligated to pay Debtor \$400,000.00.

In actuality, despite the alleged value of Debtor's accounts receivable as stated in Schedule A/B, Debtor's Plan appears to treat those accounts as having no value in excess of the liens against them, and Debtor's Plan states that its primary asset is the license Agreement with Affiliate, pursuant to which Affiliate has already paid \$150,771.98 to Lessor on Debtor's behalf (not including rent payments). That appears to be deducted from the presumptive \$400,000.00 that will be owed to Debtor by Affiliate.

Debtor calculates that this leaves a balance owed by Affiliate, once the lease is terminated, of \$249,228.05, less any payments that Affiliate pays to Lessor on Debtor's behalf through the Effective Date. Debtor's Plan proposes that Affiliate will pay Debtor that balance in 36 monthly installments

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commencing on the first month following the Effective Date.

Those payments will be used to fund an estimated \$50,000.00 in administrative expenses, payment of the secured claims with no interest, and then a *pro rata* distribution to nonpriority unsecured claims. Debtor's liquidation analysis and projection of distributions under the Plan states: "[a]ssuming a liquidation value of \$250,000 ... Class 3 [unsecured] claims should expect to receive approximately ... 10% of the allowed amount of their respective claims" under the Plan and approximately 3% in a hypothetical chapter 7 liquidation. Plan (dkt. 68), p. 31:10-16.

Some of the forgoing information is not in the Plan. It is derived from other filed documents. See *generally* Stat.Rpt. (dkt.20) at PDF p.13:1-14; Bankruptcy Schedules (dkt. 19) (*passim*) and Statement Of Financial Affairs ("SOFA") (dkt. 19), p.3, line 13.1 (PDF p.18). See *also* Plan (dkt. 68), Part IV.A. (history of Debtor), pp. 8:5-9:5 & 10:19-28; *and* Agreement between Debtor and Affiliate (Ex.1 to Plan, dkt. 68, at PDF pp. 43-46).

Debtor and Lessor have been attempting to settle their claims, but without success so far. Affiliate apparently has been paying Debtor's monthly postpetition leasehold obligations, which have been set off against the anticipated \$400,000.00 obligation of Affiliate to Debtor. Debtor's proposed Plan includes the following provision:

V. Retention of Premises to Accommodate Orderly Relocation of Films.

[Affiliate] shall retain its rights to occupy the [Premises] for a period of six-months after the Effective Date to accommodate the relocation of third-party films that are located at the premises and shall pay [Lessor] the amount of \$26,050.00 on the 21st day of each month during this period. [Plan (dkt.68), p.29:12-17]

Based on the foregoing background, and this Court's review of the Plan and other filed documents, Debtor is directed to address the following issues at the hearing, and Lessor or other parties in interest are invited to do the same.

(ii) Lease of Premises

The Plan does not specify the legal basis for the above-quoted provision regarding post-confirmation occupancy of the Premises. Is Debtor proposing a deferred rejection of the lease under 11 U.S.C. 365? This might be a confirmation issue; but before the expense and possible confusion of

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mailing out a proposed Plan to all creditors, it makes sense to address whether there are any "gating" issues.

(iii) Notice to film owners?

This Court recognizes that the major film studios that own the films located at the Premises might not qualify as creditors of Debtor (although, without knowing the parties' contractual arrangements that is unclear). But the tentative ruling is that Debtor must provide them with notice of the confirmation hearing so that they have an opportunity to be heard if they believe that they are creditors or other parties in interest whose rights might be affected by the Plan.

(iv) Cost of moving film cans?

The Plan does not appear to address the costs of moving the film cannisters. See Plan (dkt. 68), p. 31:10-16. Will that be borne entirely by Affiliate?

(v) Other

The foregoing "background" section includes some issues that are not addressed in Debtor's summary of its business, liquidation analysis, and projections. For example, (w) who owes Debtor the dollar amounts included in Debtor's accounts receivable, and what are the chances of collection; (x) what is the actual dollar amount of secured claims; (y) what happened to Debtor's other lines of business, and what are the potential revenues and values of those businesses (if any); and (z) what are the details of any transaction in which Debtor spun off its film storage business to Affiliate (*i.e.*, how does Debtor analyze that transaction from the perspective of a potential claim for voidable transfer)? The tentative ruling is that the proposed Plan must be amended to address those things.

In addition, Debtor is cautioned that various Plan provisions might exceed this Court's authority, or might not be approved for other reasons, even in the absence of any objection by parties in interest. For example, this Court anticipates reviewing carefully the Plan's proposed exculpation, retention of claims against creditors that are not specifically described, and prohibition on new or amended claims by creditors, etc. See Plan (dkt. 68), pp.20:24-22:6, 26:8-14, 27:14-28, 28:13-20.

(vi) Conclusion as to Plan

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The tentative ruling is to set a **deadline of 4/20/21** for Debtor to file an amended proposed Plan (but NOT serve it on anyone except Lessor and the UST).

(2) Deadlines/dates. This case was filed on 12/13/20. Debtor elected to proceed under Subchapter V.

(a) Bar date: 2/22/21 per General Order 20-01 (70 days after petition date in Subchapter V cases) (DO NOT SERVE any notice: one has already been sent, see dkt.23).

(b) Procedures order: dkt. 3 (timely served, dkt. 6).

(c) Plan (dkt. 68): see above.

(d) Continued status conference: 5/4/21 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 3/23/21 (revised as noted below):

Appearances required.

(1) Current issues

(a) Motion of Moss Atkinson Family Trust ("Lessor") for Relief from Stay (dkt. 30), Debtor's Opposition (dkt. 45), Lessor's Reply (dkt. 50)

[Original tentative ruling:] The Court has continued the hearing on Lessor's motion from 1/26/21 to 2/9/21, 3/2/21 and now this current hearing,

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based on the stipulations filed by the parties. See dkts. 53, 57, 63. There is no tentative ruling, but the parties should be prepared to discuss the status of their negotiations regarding the premises at 24901 W. Avenue Stanford, in Valencia, California (the "Premises").

[Revised ruling:] This matter has been continued to 4/6/21 at 1:00 p.m. by further stipulation of the parties and this Court's order thereon. See dkt. 69, 71.

(b) Debtors' proposed Plan (dkt. 68)

The tentative ruling is to address the following issues with Debtor's counsel and set a deadline to file an amended proposed Plan. The issues to be addressed are:

(i) Background

Based solely on Debtor's bankruptcy schedules, Debtor appears solvent. Total assets are listed at \$1,036,013.07 and total claims at \$980,585.66. But, as set forth below, that appears to be inaccurate.

As for assets, Debtor's bankruptcy Schedule A/B lists \$934,283.07 in accounts receivable, with no deduction for doubtful or uncollectible accounts, despite the fact that those accounts are listed as being over 90 days old. Debtor's only other listed assets are \$1,730.00 in the bank and a claim against Lessor estimated at \$100,000.00.

As for liabilities, Debtor apparently has two secured claims aggregating just under \$90,000 or just under \$140,000 - it is unclear which. See Plan (dkt. 68), p. 16 (\$79,404.04 + \$9,625.68 = \$89,029.72 secured claims) *and compare id.* at p. 31:12 (\$139,039 secured claims). Bankruptcy Schedule E/F lists \$934,073.07 in unsecured claims, and the Plan lists \$1,068,892.00. The principal unsecured claims listed on Schedule E/F include over \$500,000.00 in unpaid shipping charges and, in line 3.3, Lessor's claim at \$398,686.20 (purportedly without offset, although that appears to be inconsistent with the alleged \$100,000.00 claim against Lessor and the Plan lists Lessor's claim at \$541,474.20, which is disputed by Debtor).

As this Court understands Debtor's background, its business previously included storage at the Premises of tens of thousands of original motion picture "films in the can," weighing approximately 50 pounds each, which major film studios entrusted to Debtor. The Premises allegedly have unique and special qualities for that purpose. There is no explanation whether Debtor is still engaged in other lines of business, or the possible

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value of any such ongoing businesses, by the Plan implies that there is no such value, and the Plan proposes to liquidate Debtor.

Debtor's bankruptcy Schedule G lists no executory contracts for storage of the films, so apparently Debtor has spun off that business. In 2019 Debtor formed HFC Media Services Corporation ("Affiliate"), which promised to take over all obligations under the lease of the Premises including back rent (for an estimated total obligation of \$935,283.07) in exchange for a license to use the Premises, the right to Debtor's security deposit of \$395,855.80, \$70,000 in cash, and, apparently, approximately \$395,885.80 of accounts receivable transferred to it by Debtor. Under Affiliate's Agreement with Debtor, if rights to the Premises are terminated or lost then Affiliate is obligated to pay Debtor \$400,000.00.

In actuality, despite the alleged value of Debtor's accounts receivable as stated in Schedule A/B, Debtor's Plan appears to treat those accounts as having no value in excess of the liens against them, and Debtor's Plan states that its primary asset is the license Agreement with Affiliate, pursuant to which Affiliate has already paid \$150,771.98 to Lessor on Debtor's behalf (not including rent payments). That appears to be deducted from the presumptive \$400,000.00 that will be owed to Debtor by Affiliate.

Debtor calculates that this leaves a balance owed by Affiliate, once the lease is terminated, of \$249,228.05, less any payments that Affiliate pays to Lessor on Debtor's behalf through the Effective Date. Debtor's Plan proposes that Affiliate will pay Debtor that balance in 36 monthly installments commencing on the first month following the Effective Date.

Those payments will be used to fund an estimated \$50,000.00 in administrative expenses, payment of the secured claims with no interest, and then a pro rata distribution to nonpriority unsecured claims. Debtor's liquidation analysis and projection of distributions under the Plan states: "[a]ssuming a liquidation value of \$250,000 ... Class 3 [unsecured] claims should expect to receive approximately ... 10% of the allowed amount of their respective claims" under the Plan and approximately 3% in a hypothetical chapter 7 liquidation. Plan (dkt. 68), p. 31:10-16.

Some of the forgoing information is not in the Plan. It is derived from other filed documents. See *generally* Stat.Rpt. (dkt.20) at PDF p.13:1-14; Bankruptcy Schedules (dkt. 19) (*passim*) and Statement Of Financial Affairs ("SOFA") (dkt. 19), p.3, line 13.1 (PDF p.18). See *also* Plan (dkt. 68), Part IV.A. (history of Debtor), pp. 8:5-9:5 & 10:19-28; *and* Agreement between

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Debtor and Affiliate (Ex.1 to Plan, dkt. 68, at PDF pp. 43-46).

Debtor and Lessor have been attempting to settle their claims, but without success so far. Affiliate apparently has been paying Debtor's monthly postpetition leasehold obligations, which have been set off against the anticipated \$400,000.00 obligation of Affiliate to Debtor. Debtor's proposed Plan includes the following provision:

V. Retention of Premises to Accommodate Orderly Relocation of Films.

[Affiliate] shall retain its rights to occupy the [Premises] for a period of six-months after the Effective Date to accommodate the relocation of third-party films that are located at the premises and shall pay [Lessor] the amount of \$26,050.00 on the 21st day of each month during this period. [Plan (dkt.68), p.29:12-17]

Based on the foregoing background, and this Court's review of the Plan and other filed documents, Debtor is directed to address the following issues at the hearing, and Lessor or other parties in interest are invited to do the same.

(ii) Lease of Premises

The Plan does not specify the legal basis for the above-quoted provision regarding post-confirmation occupancy of the Premises. Is Debtor proposing a deferred rejection of the lease under 11 U.S.C. 365? This might be a confirmation issue; but before the expense and possible confusion of mailing out a proposed Plan to all creditors, it makes sense to address whether there are any "gating" issues.

(iii) Notice to film owners?

This Court recognizes that the major film studios that own the films located at the Premises might not qualify as creditors of Debtor (although, without knowing the parties' contractual arrangements that is unclear). But the tentative ruling is that Debtor must provide them with notice of the confirmation hearing so that they have an opportunity to be heard if they believe that they are creditors or other parties in interest whose rights might be affected by the Plan.

(iv) Cost of moving film cans?

The Plan does not appear to address the costs of moving the film

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cannisters. See Plan (dkt. 68), p. 31:10-16. Will that be borne entirely by Affiliate?

(v) Other

The foregoing "background" section includes some issues that are not addressed in Debtor's summary of its business, liquidation analysis, and projections. For example, (w) who owes Debtor the dollar amounts included in Debtor's accounts receivable, and what are the chances of collection; (x) what is the actual dollar amount of secured claims; (y) what happened to Debtor's other lines of business, and what are the potential revenues and values of those businesses (if any); and (z) what are the details of any transaction in which Debtor spun off its film storage business to Affiliate (*i.e.*, how does Debtor analyze that transaction from the perspective of a potential claim for voidable transfer)? The tentative ruling is that the proposed Plan must be amended to address those things.

In addition, Debtor is cautioned that various Plan provisions might exceed this Court's authority, or might not be approved for other reasons, even in the absence of any objection by parties in interest. For example, this Court anticipates reviewing carefully the Plan's proposed exculpation, retention of claims against creditors that are not specifically described, and prohibition on new or amended claims by creditors, etc. See Plan (dkt. 68), pp.20:24-22:6, 26:8-14, 27:14-28, 28:13-20.

(vi) Conclusion as to Plan

[Original tentative ruling:] The tentative ruling is to set a **deadline of 4/14/21** for Debtor to file an amended proposed Plan (but NOT serve it on anyone except Lessor and the UST).

[Revised tentative ruling:] The tentative ruling is to address these issues at the continued status conference (see below).

(2) Deadlines/dates. This case was filed on 12/13/20. Debtor elected to proceed under Subchapter V.

(a) Bar date: 2/22/21 per General Order 20-01 (70 days after petition date in Subchapter V cases) (DO NOT SERVE any notice: one has already been sent, see dkt.23).

(b) Procedures order: dkt. 3 (timely served, dkt. 6).

(c) Plan (dkt. 68): see above.

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(d) Continued status conference: [Original tentative ruling:] 4/27/21 at 1:00 p.m., [Revised tentative ruling:] 4/6/21 at 1:00 p.m., concurrent with the continued hearing on the Lessor's motion for relief from the automatic stay. No written status report is required.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

VEEJ Corp

Represented By
Jeffrey S Shinbrot

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Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 6, 2021

Hearing Room 1545

1:00 PM

2:19-24048 110 West Properties, LLC

Chapter 11

#16.00 Hrg re: Debtor's motion for order: (1) Authorizing the sale of substantially all of the debtor's assets free and clear of all liens, claims, and encumbrances pursuant to 11 U.S.C. 363(b), (f) and (m); and (2) Approving compromise of controversy pursuant to Federal Rule of Bankruptcy Procedure 9019

Docket 217

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 20, 4/6/21 at 1:00 p.m.).

Party Information

Debtor(s):

110 West Properties, LLC

Represented By
Gregory K Jones
Jeffrey Huron
Danielle N Rushing

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 6, 2021

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2:19-24048 110 West Properties, LLC

Chapter 11

#17.00 Cont'd hrg re: Application to Employ and Compensate BBG, Inc. as Appraiser
fr. 1/26/21, 2/9/21, 03/02/21

Docket 187

Tentative Ruling:

Tentative Ruling for 4/6/21:

Please see the tentative ruling for the status conference (Calendar No. 20, 4/6/21 at 1:00 p.m.).

Tentative Ruling for 3/2/21:

Please see the tentative ruling for the status conference (Calendar No. 23, 3/2/21 at 1:00 p.m.).

Party Information

Debtor(s):

110 West Properties, LLC

Represented By
Gregory K Jones
Jeffrey Huron
Danielle N Rushing

Movant(s):

110 West Properties, LLC

Represented By
Gregory K Jones
Jeffrey Huron
Danielle N Rushing

**United States Bankruptcy Court
Central District of California
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Courtroom 1545 Calendar**

Tuesday, April 6, 2021

Hearing Room 1545

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2:19-24048 110 West Properties, LLC

Chapter 11

#18.00 Cont'd hrg re: Motion for Entry of an Order Authorizing the Debtor to Retain and Compensate Professionals Utilized by the Debtor in Ordinary Course of Business
fr. 1/26/21, 2/9/21, 03/02/21

Docket 186

Tentative Ruling:

Tentative Ruling for 4/6/21:

Please see the tentative ruling for the status conference (Calendar No. 20, 4/6/21 at 1:00 p.m.).

Tentative Ruling for 3/2/21:

Please see the tentative ruling for the status conference (Calendar No. 23, 3/2/21 at 1:00 p.m.).

Party Information

Debtor(s):

110 West Properties, LLC

Represented By
Gregory K Jones
Jeffrey Huron
Danielle N Rushing

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, April 6, 2021

Hearing Room 1545

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2:19-24048 110 West Properties, LLC

Chapter 11

#19.00 Cont'd hrg re: Motion to Dismiss Chapter 11 Case
fr. 10/27/20, 12/8/20, 1/26/21, 2/9/21, 03/02/21

Docket 145

Tentative Ruling:

Tentative Ruling for 4/6/21:

Please see the tentative ruling for the status conference (Calendar No. 20, 4/6/21 at 1:00 p.m.).

Tentative Ruling for 3/2/21:

Please see the tentative ruling for the status conference (Calendar No. 23, 3/2/21 at 1:00 p.m.).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

110 West Properties, LLC

Represented By
Gregory K Jones
Jeffrey Huron
Danielle N Rushing

Movant(s):

Dos Cabezas Properties, LLC

Represented By
Robert P Goe

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, April 6, 2021

Hearing Room 1545

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2:19-24048 110 West Properties, LLC

Chapter 11

#20.00 Cont'd Status Conference re: Chapter 11 Case
fr. 12/17/19, 1/28/20, 02/18/20, 3/31/20, 4/21/20,
5/12/20, 6/2/20, 6/30/20, 8/18/20, 9/15/20, 10/27/20,
12/8/20, 1/26/21, 2/9/21, 03/02/21

Docket 5

Tentative Ruling:

**Tentative Ruling for 4/6/21:
Appearances required.**

(1) Current issues

(a) Debtor's Sale/Settlement Motion (dkt. 212, amended by dkt. 217),
opposition of Tarzana Crossing (dkt. 219), Debtor's reply (dkt. 224)

The tentative ruling is to deny the motion for the following reasons.

(i) Proposed sale of Properties

Debtor seeks approval of a sale of substantially all of its assets to Criscione-Meyer Entitlement ("Buyer") for \$22,000,000 pursuant to 11 U.S.C. 363(b) & (f). The proposed purchase price is to be paid as follows. Debtor will receive an immediate cash payment of \$10,000,000 and a promissory note due in full in 24 months at 3% annual percentage rate, a deed of trust securing the remaining \$12,000,000, and a guaranty. Dkt. 217, pp.8:17-9:19.

(A) Legal standard

Under 11 U.S.C. 363(b), the Debtor may sell estate property out of the ordinary course of business, subject to court approval. The Debtor must articulate a sufficient business reason for the sale. *In re Wilde Horse Enters., Inc.*, 136 B.R. 830, 841 (Bankr. C.D. Cal. 1991). In determining whether a sale satisfies the business judgment standard, courts must find that the sale "is in the best interests of the estate, *i.e.*, that it is fair and reasonable, that it has been given adequate marketing, that it has been negotiated and proposed in good faith, that the purchaser is proceeding in good faith, and that it is an 'arms length' transaction." *Id.* at 841-42. Whether the articulated business justification is sufficient "depends on the case," in view of "all salient factors pertaining to the proceeding." *In re Walter*, 83 B.R. 14, 19-20 (9th Cir. BAP 1988). In proposing a sale outside of the ordinary course, Debtor has

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Chapter 11

the burden of demonstrating that the sale is in the best interests of the estate.
Wilde Horse, 136 B.R. at 841.

(B) Debtor has not carried its burden of demonstrating that the sale is in the best interests of the estate

(1) Sound business purpose/adequate disclosures

The "key to the reorganization Chapter ... is *disclosure*" *Wilde Horse*, 136 B.R. at 841 (emphasis in original). "The essential purpose served by disclosure is to ensure that parties in interest are not left entirely at the mercy of the debtor and others having special influence over debtor." *Id.* Accordingly, "[a] sale of substantially all of debtor's property outside the ordinary course of business, and without a Chapter 11 disclosure statement and plan, must be closely scrutinized." *Id.* (citation omitted); *In re Lionel Corp.*, 722 F.2d 1063, 1069 (2d Cir. 1983) (reversing a approval of asset sale after holding that 11 U.S.C. 363 does not "gran[t] the bankruptcy judge *carte blanche*" or "swallo[w] up Chapter 11's safeguards"); *In re Braniff Airways, Inc.*, 700 F.2d 935, 940 (5th Cir. 1983) (prohibiting an attempt "to short circuit the requirements of Chapter 11 for confirmation of a reorganization plan by establishing the terms of the plan *sub rosa* in connection with a sale of assets").

For the reasons stated in Tarzana Crossing's opposition papers (dkt. 219, p.7:2-19) and this Court's own review of the sale ballots (dkt. 224, Ex.A), this Court has concerns that Debtor may be intentionally or inadvertently circumventing important procedural safeguards by failing to provide its members with meaningful and comprehensive disclosures about the proposed sale and settlement with one of the prior defaulting buyers. This includes, but is not limited to, whether Debtor's members were adequately informed of their ability to vote "no" on the sale ballot, the potentially significant adverse tax consequences, and the identity and current financial wherewithal of the proposed Buyer.

Debtor also balks at Tarzana Crossing's assertion that Debtor was obligated to disclose potentially adverse tax consequences arising from the sale (dkt. 224, pp.3:19-4:3). But Debtor offers no explanation for why that should not have been disclosed prior to any voting. By electing to proceed under section 363(b), Debtor appears to be depriving creditors from receiving "adequate information" as required by 11 U.S.C. 1125(a)(1), which provides for disclosure of:

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information of a kind, and in sufficient detail, as far as is reasonably practicable in light of the nature and history of the debtor and the condition of the debtor's books and records, including a discussion of the potential material Federal tax consequences of the plan to the debtor, any successor to the debtor, and a hypothetical investor of the relevant class to make an informed judgment about the plan [11 U.S.C. 1125(a)(1)]

For the foregoing reasons, the tentative ruling is that Debtor has not sufficiently articulated a sound business justification for electing to sell the Properties through section 363 in lieu of a plan.

(2) Fair and reasonable sale price

The tentative ruling is that Debtor has not presented sufficient evidence for this Court to find that the \$22,000,000 sale price is fair and reasonable. True, the sale price greatly exceeds any other offers Debtor has received, but this Court questions why Debtor would so willingly repackage a sale to one of the defaulting buyers, at a \$13,000,000 discount, despite the parties' contentious past.

Debtor has not presented evidence establishing that the Properties were adequately marketed to justify a private sale to one of the prior defaulting buyers.

Debtor's alleged marketing efforts are broadly described as consisting of Colliers International (x) "distributing marketing materials to prospective potential purchasers of the Properties," (y) "engaging in multiple discussions with prospective potential purchasers," and (z) "initiating a call for offers to thousands of prospective potential investors, developers, real estate agents, buyers, etc.," on 11/16/20." Dkt. 217, p.6:22-27 & Dkt. 183. Debtor further states that in response to the call for offers, Colliers received three offers, ranging from \$8,000,000 to \$13,300,000, which have now all expired. *Id.* pp.6:28-7:2.

But this Court's 12/8/20 tentative ruling expressed concerns with the adequacy of the marketing efforts up to that point:

First, Debtor is directed to address why the flyer distributed by Collier included the banner "Bankruptcy Court Approved" (dkt.180, Ex.1, *and* dkt.183, Ex.1). This Court has not approved any sale (although this Court has approved the employment of Colliers to market of the subject property). In fact, there are open questions about whether Debtor even has the ability to sell the subject

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property without Dos Cabezas' consent.

Second, Debtor is directed to address how it proposes to disclose to prospective purchasers of the properties the fact that Debtor is seeking to sell the subject property before the State Court has determined the underlying disputes with Dos Cabezas. True, as noted in the tentative ruling for 10/27/20, it is possible that Debtor can distinguish *In re Popp*, 323 B.R. 260, 268 (9th Cir. BAP 2005), and *In re Owens-Johnson*, 118 B.R. 780 (Bankr. S.D. Cal. 1990). But the tentative ruling is that Debtor has to disclose to prospective purchasers that (as this Court understands the issues) Dos Cabezas is asserting that (i) Debtor does not own the subject property, and therefore cannot sell it, and alternatively (ii) a sale under 11 U.S.C. 363(b) and (f) should not, or cannot, be used to defeat a claim for specific performance.

In other words, Debtor is directed to address (in consultation with Colliers) how it will disclose to prospective purchasers the potential obstacles to selling the property, without either misleading purchasers or unduly chilling any potential bidding. Of course, this Court recognizes that in chapter 11 there is a certain degree of deference to the business judgment of Debtor, in consultation with Colliers, regarding how best to market the subject property and when and how to provide disclosures. This Court also recognizes that Dos Cabezas might decide that it is in its own interest to consent to the sale (while preserving whatever interests or claims it might have regarding the proceeds of sale), so as to (i) maximize the value of the bankruptcy estate's assets, (ii) stop the running of interest - especially any default interest - owed to the senior lienholder, and thereby (iii) maximize the funds from which its claim and/or equity interests could receive distributions.

But Debtor's flyer ("Bankruptcy Court Approved," dkt.183, Ex.1, at PDF p.9), combined with Debtor's apparently cavalier attitude toward employment and compensation of professionals (see below), raise concerns about whether Debtor and Colliers are not exercising their business judgment appropriately. Debtor is cautioned that failure to exercise proper business judgment, and act as a trustee for the benefit of creditors, might lead to adverse consequences. [See Tentative Ruling for Calendar No. 21, 12/8/20

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at 1:00 p.m.]

Chapter 11

At the hearing on 12/8/20, this Court orally directed Debtor to file supplemental declaration(s) addressing the foregoing issues. On 1/5/21, Debtor timely filed a status report, but the only additional information Debtor provided in connection with its marketing efforts was that "[t]he proposed buyers who submitted offers for the Properties were advised of the State Court litigation and lis pendens affecting the Properties." Dkt. 188, p.5:24-25. Debtor's status report only raises further questions. Did Collier conduct any further marketing efforts following its November 2020 call for offers? What disclosures were provided to the three interested buyers and/or any other interested buyers? Could such disclosures have had the opposite affect of what this Court was concerned might happen, and instead chilled bidding? If Debtor's \$22,000,000 appraisal is accurate, why were the offers Debtor received (prior to disclosing its existing litigation) so low?

For the foregoing reasons, the tentative ruling is that Debtor has not carried its burden as to this factor.

(ii) Proposed settlement with mutual releases

In conjunction with the proposed sale Debtor also seeks approval of a global settlement with mutual releases between Debtor, the proposed Buyer, Dos Cabezas, Michael Criscione and Michael Meyer that would resolve outstanding litigation. Dkt. 217, pp.18:16-22:3. The tentative ruling is that without further disclosures, this Court is skeptical about the propriety of the proposed settlement. The Debtor's papers do not make clear what consideration Dos Cabezas, Michael Criscione and Michael Meyer are receiving in exchange for the consideration being provided to the estate and execution of the mutual releases. Nor is it clear whether the mutual releases attempt to circumvent 11 U.S.C. 524(e)'s prohibition against third-party releases by dismissing any claims against non-settling third-parties, such as RU, LLC, who is also a defendant in the Derivative Action. See Adv. No. 2:20-ap-01012-NB, dkt. 1.

(b) Motion of Doz Cabezas Properties, LLC ("Dos Cabezas") to dismiss case (dkt. 145, 166, the "MTD"), Debtor's opposition (dkt. 168), Dos Cabezas's reply (173), Dos Cabezas's supplemental papers (dkt. 179, 182), Debtor's supplemental papers (dkt. 181, 183), Debtor's status report (dkt. 188), Doz Cabezas's supplemental papers (dkt. 193), Debtor's supplemental

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CONT... 110 West Properties, LLC

Chapter 11

response (dkt. 197)

There is no tentative ruling. The outcome of this motion may depend in part on whether this Court adopts its Tentative Ruling for the Sale/Settlement Motion.

(c) Debtor's applications to retain and compensate ordinary course professionals (dkt. 186, "Ordinary Course Application"), and employ BBG, Inc., as its appraiser (dkt. 187, "Appraisal Application") (together, the "Applications"), Omnibus opposition of Dos Cabezas (dkt. 194), Debtor's reply (dkt. 198)

The tentative ruling is to continue this matter concurrent with the continued status conference (see Section 2(d) below).

(d) Tarzana Crossing v. 110 West Properties, LLC et al. (2:20-ap-01012-NB)

There is no tentative ruling. The outcome of this motion may depend in part on whether this Court adopts its Tentative Ruling for the Sale/Settlement Motion.

(2) Deadlines/dates. This case was filed on 11/29/19.

(a) Bar date: 3/31/20 (dkt.46, timely served, dkt.49).

(b) Procedures order: dkt. 2 (timely served, dkt. 8, 9)

(c) Plan/Disclosure Statement*: N/A

(d) Continued status conference: 5/11/21 at 1:00 p.m., *Brief* status report due 4/27/21.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the

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Chapter 11

first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 3/2/21:

[Intentionally omitted]

Tentative Ruling for 12/8/20:

Appearances required.

(1) Current issues

(a) Motion of Doz Cabezas Properties, LLC ("Dos Cabezas") to dismiss case (dkt. 145, 166), Debtor's opposition (dkt. 168), Dos Cabezas's reply (173), Dos Cabezas's supplemental papers (dkt. 179, 182), Debtor's supplemental papers (dkt. 181, 183)

The tentative ruling is not to strike the latest, unauthorized briefs. In any event, with or without considering them, the tentative ruling is to deny the motion to dismiss this case, without prejudice, for the reasons stated in this Court's tentative ruling for 10/27/20 (copied below), with the following caveats.

First, Debtor is directed to address why the flyer distributed by Collier included the banner "Bankruptcy Court Approved" (dkt.180, Ex.1, *and* dkt.183, Ex.1). This Court has not approved any sale (although this Court has approved the employment of Colliers to market of the subject property). In fact, there are open questions about whether Debtor even has the ability to sell the subject property without Dos Cabezas' consent.

Second, Debtor is directed to address how it proposes to disclose to prospective purchasers of the properties the fact that Debtor is seeking to sell the subject property before the State Court has determined the underlying disputes with Dos Cabezas. True, as noted in the tentative ruling for 10/27/20, it is possible that Debtor can distinguish *In re Popp*, 323 B.R. 260, 268 (9th Cir. BAP 2005), and *In re Owens-Johnson*, 118 B.R. 780 (Bankr. S.D. Cal. 1990). But the tentative ruling is that Debtor has to disclose to prospective purchasers that (as this Court understands the issues) Dos Cabezas is asserting that (i) Debtor does not own the subject property, and therefore cannot sell it, and alternatively (ii) a sale under 11 U.S.C. 363(b) and (f) should not, or cannot, be used to defeat a claim for specific performance.

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110 West Properties, LLC

Chapter 11

In other words, Debtor is directed to address (in consultation with Colliers) how it will disclose to prospective purchasers the potential obstacles to selling the property, without either misleading purchasers or unduly chilling any potential bidding. Of course, this Court recognizes that in chapter 11 there is a certain degree of deference to the business judgment of Debtor, in consultation with Colliers, regarding how best to market the subject property and when and how to provide disclosures. This Court also recognizes that Dos Cabezas might decide that it is in its own interest to consent to the sale (while preserving whatever interests or claims it might have regarding the proceeds of sale), so as to (i) maximize the value of the bankruptcy estate's assets, (ii) stop the running of interest - especially any default interest - owed to the senior lienholder, and thereby (iii) maximize the funds from which its claim and/or equity interests could receive distributions.

But Debtor's flyer ("Bankruptcy Court Approved," dkt.183, Ex.1, at PDF p.9), combined with Debtor's apparently cavalier attitude toward employment and compensation of professionals (see below), raise concerns about whether Debtor and Colliers are not exercising their business judgment appropriately. Debtor is cautioned that failure to exercise proper business judgment, and act as a trustee for the benefit of creditors, might lead to adverse consequences.

(b) Apparently unauthorized retention and payment of professionals

Debtor is directed to address the apparently unauthorized employment and payment of persons who appear to be professionals: Hammonds & Frey (accounting/tax services), Hunter & Co. (management), and BBG, Inc. (appraisal). See dkt.179, p.4:3-23. Debtor alleges (dkt.181, pp.4:23-5:27) that none of these services are "central to the administration of the estate," and instead are "ordinary course" payments that purportedly do not require Court authorization. But, first, there is no evidence to support those allegations and, second, Debtor's explanation raises its own concerns - for example, it is potentially troubling if Debtor is relying on someone to do accounting and tax services who is not addressing the bankruptcy-specific aspects of accounting and tax issues (*i.e.*, if they do not qualify as professionals, that in itself might be problematic).

The tentative ruling is to set a **deadline of 1/5/21** for Debtor and/or those persons to file and serve on all parties in interest either (i) applications for employment, including any authority for retroactive authorization, or (ii)

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briefs and evidence as to why such persons are not professionals and/or why the payments to them are "ordinary course" and/or whatever other arguments they assert as to why notice, a hearing, and this Court's prior authorization for employment and payment allegedly were not required. The tentative ruling is to set **deadlines of 1/12/21 for any responses, and 1/19/21 for any replies.**

(2) Deadlines/dates. This case was filed on 11/29/19.

(a) Bar date: 3/31/20 (dkt.46, timely served, dkt.49).

(b) Procedures order: dkt. 2 (timely served, dkt. 8, 9)

(c) Plan/Disclosure Statement*: N/a

(d) Continued status conference: 1/26/21 at 1:00 p.m. *Brief* status report due 12/29/20.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 10/27/20:

Appearances required.

(1) Current issues

(a) Doz Cabezas Properties, LLC's ("Dos Cabezas") motion to dismiss case (dkt. 145, 166), Debtor's opposition (dkt. 168), Dos Cabezas's reply (173)

The tentative ruling is to deny the motion without prejudice on the grounds that this Court is not persuaded that, on the present record, sufficient

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CONT... 110 West Properties, LLC

Chapter 11

"cause" exists under 11 U.S.C. 1112(b)(4) to convert or dismiss this case.

First, litigation takes time and Dos Cabezas has not presented sufficient evidence to persuade this Court that Debtor is not diligently prosecuting this bankruptcy case and the State Court action. To the contrary, Debtor's prosecution of this case appears to be reasonable in light of the uncertainty and challenges presented by COVID-19, the resulting backlog in state courts, and the great deal of latitude afforded to debtors exercising their business judgment about matters of case administration.

Second, Dos Cabezas' reliance on *In re Popp*, 323 B.R. 260, 268 (9th Cir. BAP 2005), and *In re Owens-Johnson*, 118 B.R. 780 (Bankr. S.D. Cal. 1990), is not dispositive. True, it is likely that Debtor's anticipated motion to sell the subject property will be subject to objections based on arguments that (i) Debtor cannot sell what it does not own and (ii) a sale under 11 U.S.C. 363(b) and (f) should not, or cannot, be used to defeat a claim for specific performance. But (x) this Court cannot presume, in advance, that those anticipated objections will prevail, (y) even if a sale were blocked, Debtor has other options (e.g., proposing a plan of reorganization, or waiting until a determination in the State Court litigation that Debtor has an ownership interest in the subject property, and therefore can sell it), and (z) even if all of those things were to turn out in future not to be viable options, it is premature to dismiss this case based on that future possibility.

(b) Dos Cabezas Properties, LLC, Criscione-Meyer Entitlement, Michael Criscione and Michael Meyer's ("Movants") omnibus objection to proofs of claim (dkt. 121, "Claim Objections") 4-1/4-2, 6-1, 7-1, 8-1, 9-1, 10-1, 11-1, 12-1, 13-1, 14-1, 15-1, 16-1, 17-1, 18-1, 19-1, 20-1, 22-1, 23-1/23-2, 24-1, 25-1, 26-1, 27-1, 29-1, 31-1, 32-1, 33-1, 34-1, 35-1, 36-1 and 37-1 ("the Claims"), stipulation & order continuing hearing (dkt. 129, 131), Tarzana Crossing, a Merchant Faire, LLC's ("Tarzana Crossing") opposition (dkt. 137), no reply is on file

Appearances required. At the hearing on 8/18/20 this Court was persuaded to continue this matter, rather than adopt the tentative ruling (reproduced below). The parties should be prepared to address the issues set forth in that tentative ruling and their filed papers.

(2) Deadlines/dates. This case was filed on 11/29/19.

(a) Bar date: 3/31/20 (dkt.46, timely served, dkt.49).

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110 West Properties, LLC

Chapter 11

(b) Procedures order: dkt. 2 (timely served, dkt. 8, 9)

(c) Plan/Disclosure Statement*: N/a

(d) Continued status conference: 12/8/20 at 1:00 p.m. *Brief* status report due 11/24/20.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, all appearances are telephonic via CourtCall at (888) 882-6878.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

110 West Properties, LLC

Represented By
Gregory K Jones
Jeffrey Huron
Danielle N Rushing

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Adv#: 2:20-01012 Tarzana Crossing, a Merchant Faire, LLC v. 110 West Properties, LLC et al

#21.00 Cont'd hrg re: Motion of Creditors/Defendants Dos Cabezas Properties, LLC, Criscione-Meyer Entitlement, a Limited Liability Company Cell of Almond Tree Capital Management Co., LLC, Michael Criscione to Remand Tarzana Crossing, A Merchant Faire, LLC's Complaint and Request for Attorney's Fees in the Amount of \$2,800.00
fr. 03/31/20, 5/12/20, 6/30/20, 8/18/20, 10/27/20, 12/8/20, 1/26/21, 2/9/21, 03/02/21

Docket 7

Tentative Ruling:

Tentative Ruling for 4/6/21:

Please see the tentative ruling for the adversary status conference (Calendar No. 20, 4/6/21 at 1:00 p.m.).

Tentative Ruling for 3/2/21:

Please see the tentative ruling for the adversary status conference (Calendar No. 19, 3/2/21 at 1:00 p.m.).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

110 West Properties, LLC

Represented By
Gregory K Jones
Jeffrey Huron
Danielle N Rushing

Defendant(s):

110 West Properties, LLC

Represented By
Gregory K Jones
Jeffrey Huron

RU, LLC

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 6, 2021

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Chapter 11

Dos Cabezas Properties, LLC

Represented By
Thomas F Nowland
Robert P Goe
Charity J Manee

Criscione-Meyer Entitlement, LLC

Represented By
Thomas F Nowland

Michael Criscione

Represented By
Thomas F Nowland

First American Title Company

Pro Se

Movant(s):

Dos Cabezas Properties, LLC

Represented By
Thomas F Nowland
Robert P Goe
Charity J Manee

Criscione-Meyer Entitlement, LLC

Represented By
Thomas F Nowland

Michael Criscione

Represented By
Thomas F Nowland

Plaintiff(s):

Tarzana Crossing, a Merchant Faire,

Represented By
Alan M Feld
Peter C. Bronson
Peter C Bronson

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2:19-24048 110 West Properties, LLC

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Adv#: 2:20-01012 Tarzana Crossing, a Merchant Faire, LLC v. 110 West Properties, LLC et al

#22.00 Cont'd Status Conference re: Notice of Removal
fr. 03/31/20, 5/12/20, 6/30/20, 8/18/20, 10/27/20
12/8/20, 1/26/21, 2/9/21, 03/02/21

Docket 1

Tentative Ruling:

Tentative Ruling for 4/6/21:

Please see the tentative ruling for the main case status conference (Calendar No. 20, 4/6/21 at 1:00 p.m.).

Tentative Ruling for 3/2/21:

Please see the tentative ruling for the main case status conference (Calendar No. 23, 3/2/21 at 1:00 p.m.).

Tentative Ruling for 12/8/20:

Appearances required.

(1) Current issues

(a) Motion for remand (adv. dkt. 7, "Remand Motion") and supporting declaration (adv. dkt. 8), Plaintiff's opposition (adv. dkt. 10), Movants' reply (adv. dkt. 12)

This matter has been continued several times to allow time for the parties to participate in settlement negotiations. The tentative ruling is to continue this matter again, concurrent with the status conference in the main case, in view of Debtor's report (main case, dkt.180, p.5:17-20) that Debtor and Tarzana Crossing have tentatively reached a settlement for which Debtor intends to seek approval.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter

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by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 10/27/20:

[Intentionally omitted]

Tentative Ruling for 8/18/20:

Appearances required.

Pursuant to Judge Bason's COVID19 Procedures, **ONLY TELEPHONIC APPEARANCES WILL BE PERMITTED until further notice.** Please contact CourtCall at (888) 882-6878 to make arrangements for any telephonic appearance. There is no need to contact the Court for permission. Parties who are not represented by an attorney will be able to use CourtCall for free through 9/30/20. Attorneys will receive a 25% discount (for more information, see www.cacb.uscourts.gov, "Judges," "Bason, N.," "Telephonic Instructions").

(1) Current issues

(a) Motion for remand (adv. dkt. 7, "Remand Motion") and supporting declaration (adv. dkt. 8), Plaintiff's opposition (adv. dkt. 10), Movants' reply (adv. dkt. 12)

This matter was continued to allow time for the parties to participate in a second round of mediation, which was been scheduled to take place on 7/17/20 (Main Case, dkt. 129, p.2:7-8). On 8/4/20, Debtor filed a status report (Main Case, dkt. 136, p.4:22-26) stating that "the parties were unable to resolve their disputes [at the mediation, but] are continuing to make efforts to resolve their disputes through Mr. Gould."

There is no tentative ruling, but the parties should be prepared (a) to provide this Court with any updates on the status of those negotiations (if any) and (b) to address whether this matter should be further continued or this Court should rule on the merits of the Remand Motion.

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Tentative Ruling for 6/30/20:

[Intentionally omitted]

Tentative Ruling for 5/12/20:

[Intentionally omitted]

Tentative Ruling for 3/31/20:

Appearances required, to address whether, prior to remand, this Court should order mandatory mediation. But, pursuant to Judge Bason's COVID19 Procedures, **telephonic appearances are REQUIRED until further notice.**

Please contact CourtCall at (888) 882-6878 to make arrangements for any telephonic appearance. There is no need to contact the Court for permission. Parties who are not represented by an attorney will be able to use CourtCall for free through 4/30/20. Attorneys will receive a 25% discount (for more information, see www.cacb.uscourts.gov, "Judges," "Bason, N.," "Telephonic Instructions").

This Court has reviewed the parties' joint status report (dkt. 11) and the other filed documents and records in this adversary proceeding.

(1) Current issues

(a) Motion for remand (adv. dkt. 7, "Remand Motion") and supporting declaration (adv. dkt. 8), Plaintiff's opposition (adv. dkt. 10), Movants' reply (adv. dkt. 12)

Defendants Dos Cabezas Properties, LLC, Criscione-Meyer Entitlement, LLC, and Michael Criscione (collectively, the "Movants") seek an order remanding this proceeding and for an award of attorneys fees and costs

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imposed against plaintiff Tarzana Crossing, a Merchant Faire, LLC ("Plaintiff").

For the reasons set forth below, the tentative ruling is to grant the request to remand this removed action, but perhaps defer the remand until after mediation, and deny the request for attorney fees.

(i) Jurisdiction

The parties dispute whether this Court has subject matter jurisdiction to hear this proceeding. The tentative ruling is that this Court has "related to" jurisdiction pursuant to 28 U.S.C. 157(c)(1), because the parties' dispute arises from an alleged breach of contract for the sale of the estate's principal asset.

(ii) Mandatory abstention

The tentative ruling is that mandatory abstention applies as follows. Mandatory abstention under 28 U.S.C. 1334(c)(2) requires seven elements: (1) a timely motion; (2) a purely state law question; (3) a non-core proceeding under 28 U.S.C. 157(c)(1); (4) a lack of independent federal jurisdiction absent the petition under Title 11; (5) that an action is commenced in a state court; (6) the state court action may be timely adjudicated; (7) a state forum of appropriate jurisdiction exists. [*In re Gen. Carriers Corp.*, 258 B.R. 181, 189 (9th Cir. BAP 2001) (internal quotation omitted).]

These elements are satisfied: (1) the motion was timely - the proceeding was removed on 1/22/20 and Movants filed the remand motion just 30 days later, on 2/21/20; (2) the complaint involves purely nonbankruptcy law questions (breach of fiduciary duty etc., adv. dkt. 7, p. 2:17-21) (Movants state that they amended their complaint on 8/30/19, but there is nothing in the record reflecting what was amended (*id.*, p. 2:21), so this Court bases its ruling on the record presented); (3) the proceeding is noncore - the authorities cited by the removing party (dkt.10, pp.14:24-15:14) are distinguishable because they all involved alleged violations of fiduciary duties within the bankruptcy case itself, not prepetition and nonbankruptcy alleged violations; (4) no independent federal jurisdiction has been asserted; (5) the action was commenced prepetition, on 12/14/18, in Los Angeles Superior Court; (6) there is no evidence that the proceeding cannot be timely adjudicated in the State Court; and (7) neither party has contested in this Court the State Court's jurisdiction over the proceeding.

(iii) Discretionary abstention

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Alternatively, and in addition, the tentative ruling is that discretionary abstention is appropriate.

Discretionary abstention under 28 U.S.C. 1334(c)(1) requires consideration of the following twelve factors:

(1) the effect of lack thereof on the efficient administration of the estate if a Court recommends abstention, (2) the extent to which state law issues predominate over bankruptcy issues, (3) the difficulty or unsettled nature of the applicable law, (4) the presence of a related proceeding commenced in state court or other nonbankruptcy court, (5) the jurisdictional basis, if any, other than 28 U.S.C. 1334, (6) the degree of relatedness or remoteness of the proceeding to the main bankruptcy case, (7) the substance rather than form of an asserted "core" proceeding, (8) the feasibility of severing state law claims from core bankruptcy matters to allow judgments to be entered in state court with enforcement left to the bankruptcy court, (9) the burden of the bankruptcy court's docket, (10) the likelihood that the commencement of the proceeding in bankruptcy court involves forum shopping by one of the parties, (11) the existence of a right to a jury trial, and (12) the presence in the proceeding of nondebtor parties.

In re Tucson Estates, Inc., 912 F.2d 1162, 1167 (9th Cir. 1990).

Several of the *Tucson* factors weigh in favor of abstention. First, the Complaint involves purely state-law issues. Second, this Court would not have jurisdiction over the Complaint but for the Debtor's bankruptcy petition, because the claims arise under state law and there is no diversity between the parties. Third, the Complaint involves several non-debtor parties who have asserted a right to a jury trial. Fourth, permitting the Complaint to proceed in state court will contribute to the efficient administration of the bankruptcy case because the State Court is the best tribunal to adjudicate the parties' state law claims. Fifth, although the Complaint is related to the main bankruptcy case because it involves claims relating to the primary asset of the estate, deferring to the State Court to adjudicate the parties' claims will not unduly interfere with this Bankruptcy Court's determination of other matters in the bankruptcy case.

(iv) Movants' request for attorneys' fees is denied

The tentative ruling is to deny Movant's request for attorneys' fees because this Court is not persuaded that Plaintiff lacked an objectively reasonable basis for seeking removal of this action because the dispute is

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related to the primary asset of Debtor's bankruptcy estate.

Proposed order: Movants are directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1) (B).

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(2) Venue/jurisdiction/authority.

The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this Bankruptcy Court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. See generally *Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). See generally *In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(3) Mediation. [Intentionally omitted]

(4) Deadlines: [Intentionally omitted]

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Party Information

Debtor(s):

110 West Properties, LLC

Represented By
Gregory K Jones
Jeffrey Huron
Danielle N Rushing

Defendant(s):

110 West Properties, LLC

Represented By
Gregory K Jones
Jeffrey Huron

RU, LLC

Pro Se

Dos Cabezas Properties, LLC

Represented By
Thomas F Nowland
Robert P Goe
Charity J Manee

Criscione-Meyer Entitlement, LLC

Represented By
Thomas F Nowland

Michael Criscione

Represented By
Thomas F Nowland

First American Title Company

Pro Se

Plaintiff(s):

Tarzana Crossing, a Merchant Faire,

Represented By
Alan M Feld
Peter C. Bronson
Peter C Bronson

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2:16-21559 David MacMillan

Chapter 7

#1.00 Cont'd hrg re: Trustee's Objection to Amended Claim of Wyndham
Vacation Resorts, Inc.
fr 3/23/21

Docket 522

Tentative Ruling:

Tentative Ruling for 4/6/21:

Appearances required.

(1) Current issues

The tentative ruling is (a) to sustain the Trustee's objections to Wyndham's Claims, without leave for Wyndham to renew its claims for liquidated damages, but (b) to refrain from issuing any order memorializing that ruling, so that this Court can direct the parties to mandatory mediation in an attempt to avoid the expense and delay of any appeals or other proceedings. This Court will address at the continued status conference (see below) when to use and enter any order(s) implementing this tentative ruling.

(a) Terminology

This Court's terminology is as previously memorialized (MacCase, dkt.485).

(b) Key documents reviewed

Wyndham's Proof of Claim 3-4 filed in the MacCase (the "Wyndham-Mac Claim") and Wyndham's Proof of Claim 1-2 filed in the AttitudeCase (the "Wyndham-Attitude Claim," and together, the "Claims"); 2015 Settlement Agreement (MacCase dkt. 516, Ex. H, at PDF pp. 151 *et seq.*); 2020 Settlement Agreement (MacCase dkt. 512, Ex. A); Motion to approve settlement (MacCase dkt. 512); Trustee's limited objection to settlement (MacCase dkt. 515); Reply re settlement (MacCase dkt. 516; AttitudeCase dkt. 191); Order approving settlement subject to Trustee's right to object to claim (MacCase dkt. 518); Trustee's Claim objection (MacCase dkt. 522; AttitudeCase dkt. 191); Wyndham's Response (MacCase dkt. 528; AttitudeCase, dkt. 196), MacMillan declaration in support of Wyndham's

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Response (MacCase dkt. 530; AttitudeCase, dkt. 197), Stipulations and orders extending filing deadlines (MacCase, dkt. 532, 533, 535, 536; AttitudeCase, dkt. 198, 199, 201, 202), Trustee's reply (MacCase, dkt. 538; AttitudeCase, dkt. 204), Trustee's declaration in support of reply (MacCase dkt. 539; AttitudeCase, dkt. 205), Trustee's request for judicial notice (MacCase dkt. 540; AttitudeCase, dkt. 206)

(c) Legal standards for objections to claim.

Under the statute, a proof of claim is "deemed allowed" unless an objection is made, and if such an objection is made then the court "shall" allow such claim "except to the extent that" it is unenforceable under the agreement itself or applicable law (or other, inapplicable grounds). 11 U.S.C. 502(a) & (b). In other words, the burden is on the objecting party to provide a cognizable ground to disallow the claim.

(i) There must be some factual or legal basis to disallow the claim, not just an alleged non-compliance with Rule 3001

Pursuant to Rule 3001(f) a proof of claim must be "executed and filed in accordance with these rules" in order to automatically "constitute *prima facie* evidence of the validity and amount of the claim." But a rule cannot supersede a statute, and an objecting party must do more than simply point to a lack of compliance with Rule 3001 in order to obtain an order disallowing a claim: the objecting party must establish an actual basis to contest the liability or amount of the claim. See *In re Campbell*, 336 B.R. 430 (9th Cir. BAP 2005); *In re Heath*, 331 B.R. 424 (9th Cir. BAP 2005). See also *Travelers Cas. & Sur. Co. of Am. v. Pac. Gas & Elec. Co.*, 549 U.S. 443, 449, 127 S. Ct. 1199, 167 L. Ed. 2d 178 (2007) ("the court 'shall allow' the claim 'except to the extent that' the claim implicates any of the nine exceptions enumerated in [section] 502(b)").

(ii) Non-compliance with Rule 3001 only means that the "usual burdens of proof" apply

If a proof of claim does not comply with Rule 3001(f) then it does not automatically constitute *prima facie* evidence of the "validity and amount" of the claim and "the usual burdens of proof associated with claims litigation apply." *Campbell*, 336 B.R. 430, 436 (emphasis added). But the proof of claim can still be *prima facie* evidence of the claim's validity and amount if the

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evidence attached to the proof of claim is "sufficient to support the claim." In that situation the objecting party "must produce evidence tending to defeat the claim that is of probative force equal to that of the creditors' proof of claim." *In re Consolidated Pioneer Mortgage*, 178 B.R. 222, 226 (9th Cir. BAP 1995) (citations and internal quotation marks omitted).

(b) The Claims are not entitled to *prima facie* validity as against the Trustee under Rule 3001(f)

On 12/16/20, Wyndham filed the amended Claims (which appear in all respects to be identical) asserting general unsecured claims against the MacMillan and Attitude estates in the amount of \$25,000,000. Although it is not clear from a review of the documents filed in support of the Claims, it appears the Claims are comprised of (w) damages arising out of the Debtors' alleged failures to transfer timeshares to Wyndham and pay an agreed-upon \$375 per unit transferred as well as unpaid maintenance fees, (x) attorneys' fees, (y) interest, and (z) liquidated damages arising from alleged breaches of a 2015 Settlement Agreement (the "2015 Settlement Agreement") executed in connection with pre-petition litigation in the Middle District of Tennessee captioned *Wyndham Vacation Resorts, Inc. et al. v. Property Relief, LLC, et al.*, Case No. 3:13-cv-434 (the "WVR Lawsuit") (MacCase dkt. 516, Ex. H, at PDF pp. 151 *et seq.*).

In support of the Claims, Wyndham relies on a four-page summary of the history of its bankruptcy litigation with MacMillan and Cynthia Martin which concluded with the execution of a new settlement agreement (the "2020 Settlement Agreement") (MacCase dkt. 512-1, Ex. A), as well as this Court's order approving that agreement and the related nondischargeability judgment (none of which is attached, but all of which have been reviewed by this Court). But, as the Trustee highlights, the Claims are not supported by the 2015 Settlement Agreement or any kind of summary explaining the various components of the Claims or how Wyndham arrived at the \$25,000,000 figure (MacCase dkt. 522, pp.1:28-2:4 & 17:23-19:4 & AttitudeCase dkt. 191, p.2:1-5 & 18:7-20:25).

As against Debtors themselves, Wyndham's Claims might be entitled to *prima facie* validity because Debtors were *parties* to the underlying 2020 Settlement Agreement. But as against the Trustee, there is insufficient information to determine the components of the claim including anything about how the settling parties arrived at \$10,000 for liquidated damages.

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Therefore, the tentative ruling is that the Claims lack sufficient information to give them *prima facie* validity under Rule 3001(c)(1) & (f) (Fed. R. Bankr. P.). See e.g., *In re Heath*, 331 B.R. at 433 (claim can be based on summary rather than complete documentation but, among other things, "if the claim includes charges such as interest, late fees and attorney's fees, the summary should include a statement giving a breakdown of those elements").

Alternatively, even if the Claims had *prima facie* validity under Rule 3001(f) (which they do not), that would not change the outcome. The Trustee has rebutted any such initial showing by Wyndham, thereby shifting the burden to Wyndham. Wyndham has not carried that burden, for the reasons set forth below.

(c) Wyndham has not carried its initial burden of proof

The Trustee objects to the Claims on the grounds that the lion's share of the \$25,000,000 figure is premised on an unenforceable liquidated damages provision in the 2015 Settlement Agreement under applicable law (*i.e.*, that the Claims must be disallowed under 11 U.S.C. 502(b)(1)) (MacCase dkt. 522, pp.14:14-17:21 & AttitudeCase dkt. 191, pp.15:1-18:5).

(i) Tennessee law applies

Neither party has briefed whether this Court should apply Tennessee or California law. But the tentative ruling is that Tennessee law applies pursuant to paragraph 13 of the 2015 Settlement Agreement, which states in relevant part: "[s]hould any question arise as to the construction or interpretation of this Agreement, this Agreement shall be construed and interpreted according to the laws of the State of Tennessee" (see 2:17-ap-01229-NB, dkt. 80, p.14, para. "(13)") (emphasis added).

Under Tennessee law, "the term 'liquidated damages' refers to an amount determined by the parties to be just compensation for damages, should a contract breach occur." *Guesthouse Int'l Franchise Sys., Inc., v. British Am. Props. MacArthur Inn, LLC*, 2009 U.S. Dist. LEXIS 8570, at *30-31, 2009 WL 278214, at *9-10 (M.D. Tenn. 2009) (quoting *Vanderbilt Univ. v. DiNardo*, 174 F.3d 751, 755 (6th Cir. 1999)). "The fundamental purpose of a liquidated damages provision is to provide a means of compensation in the event of a breach where damages would be indeterminable or otherwise difficult to prove." *Id.* (citing *Guiliano v. Cleo, Inc.*, 995 S.W.2d 88, 98 (Tenn. 1999)). "Tennessee courts 'have long recognized the freedom of parties to

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agree upon terms that may not appear desirable to outsiders and the duty of the courts to refrain from interfering with the parties' agreement unless to enforce it would violate established public policy." *Id.* (quoting *Anesthesia Med. Group v. Chandler*, 2007 Tenn. App. LEXIS 73, 2007 WL 412323, at *9 (Tenn. Ct. App. Feb. 6, 2007)).

Tennessee courts "will uphold a liquidated damages provision if 'the liquidated damages specified were a **reasonable prediction** of what a breach would cost the injured party in light of circumstances at the time the contract was formed.'" *Id.* (quoting *U.S. v. Ponnappa*, 246 F.3d 576, 584 (6th Cir. 2001)) (emphasis added). "Therefore, 'the amount of actual damages at the time of breach is of little or no relevance to whether the clause is an impermissible penalty.'" *Id.* "Courts will not, however, enforce a liquidated damages provision 'if the stipulated amount constitutes a penalty.'" *Id.* (quoting *Vanderbilt Univ.*, 174 F.3d at 755). "A penalty is 'designed to coerce performance by punishing default.'" *Id.* "Any doubt as to the character of a contract provision 'will be resolved in favor of finding it a penalty.'" *Id.*

(ii) Wyndham has the burden to establish that the liquidated sum was a reasonable prediction of damages

The parties also have not briefed which of them bears the burden of establishing the enforceability of the liquidated damages provision and, based on this Court's own research, it appears Tennessee Courts are split on the issue. This Court has found at least three Tennessee Court of Appeals decisions that placed the burden on the party seeking to enforce a liquidated damages clause to establish that the liquidated sum was a reasonable prediction of damages. *See Patterson v. Anderson Motor Co.*, 45 Tenn. App. 35, 55-56 (1958) ("it is at least conceivable that had defendants elected to put on proof, they might have established as a fact that \$2,000 was a reasonable sum to be allowed as liquidated damages ..."), *Eatherly Construction Co. v. HTI Memorial Hospital*, 2005 Tenn. App. LEXIS 575, at *28, 2005 WL 2217078, at *9 (Tenn. Ct. App. Sept. 12, 2005) (citing *Guiliano v. Cleo, Inc.*, 995 S.W.2d 88, 100-101 (Tenn. 1999)) ("In the trial court, [the party seeking to enforce the liquidated damages provision] had the burden to establish that the liquidated sum was a reasonable estimate of potential damages"); *Bachour v. Mason*, 2013 Tenn. App. LEXIS 366, at *12-13, 2013 WL 2395027, at *5 (Tenn. Ct. App. May 30, 2013) ("It thus appears to us that the \$75,000 was not based on any estimate of potential damages, but was just

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an arbitrary figure that Buyer plucked from thin air. There is no evidence to support his contention that the figure bears any relation to the potential damages he would likely have suffered").

And other courts have agreed that "any doubt as to the character of the [liquidated damages] provision will be resolved in favor of finding it a penalty." *DiNardo, supra* (citing *Beasley v. Horrell*, 864 S.W.2d 45, 48 (Tenn. Ct. App. 1993), *overruled on other grounds by Guiliano, supra*); see also *Goggin Truck Line Co. v. Brake Pro, Inc.* 2000 Tenn. App. LEXIS 563, at *10, 2000 WL 1183058, at *3 (Tenn. Ct. App. Aug. 22, 2000) (same).

But some courts have held that a challenge to the enforceability of a liquidated damages provision is an affirmative defense which places the burden on the party seeking to avoid the clause to prove that it is a penalty. See e.g. *Shelbyville Hosp. Corp. v. Mosley*, 2017 U.S. Dist. LEXIS 191466, at *44, 2017 WL 5586729, at *14 (E.D. Tenn. Nov. 20, 2017) (citing *Anesthesia Med. Grp., P.C. v. Buras*, 2006 Tenn. App. LEXIS 618, at *8, 2006 WL 2737829, at *3 (Tenn. Ct. App. Sept. 25, 2006)) (issue of enforceability of liquidated damages provision was held to be an affirmative defense).

In the absence of clear authority on the issue, the tentative ruling is that the better reasoned decisions put the burden on the party seeking to enforce a liquidated damages provision because that party is in the best position to establish that its liquidated damages provision was intended to be a reasonable prediction of damages and not to serve as a penalty.

(A) Wyndham has not established that the liquidated sum was a reasonable prediction of damages

In its opposition papers Wyndham argues that its Claims are well supported and that its evidence clearly establishes the enforceability of the liquidated damages provision. But, as discussed below, the tentative ruling is that Wyndham has not presented any evidence establishing that the \$10,000 liquidated damages figure was a reasonable prediction of damages. In addition, Wyndham has not sufficiently established the basis for any multiplier that would transform \$10,000 per breach of the 2015 Settlement Agreement into \$25 million of damages.

As noted above, the 2015 Settlement Agreement is not attached in support of the Claims and nothing in the 2015 Settlement Agreement explains how the parties arrived at the \$10,000 liquidated damages figure. The best evidence Wyndham offers to support its contention that \$10,000 was a

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reasonable measure of its compensatory damages is that the parties agreed to that amount.

Wyndham highlights that paragraphs 4(c), 4(d), 4(e) and 4(f) of the 2015 Settlement Agreement provide for \$10,000 in liquidated damages for each separate breach and violation and that the agreement specifically states: "[t]he parties agree that the liquidated damages provision is necessary and appropriate due to the difficulty in quantifying the degree of losses, damages or harm posed by a violation of this provision with any mathematical certainty." MacCase dkt. 528, pp.20:25-26:9 & AttitudeCase dkt. 196, pp.20:25-26:9. But the tentative ruling is that this evidence, on its own, is not enough to satisfy Wyndham's burden. See e.g. *Eatherly Construction Co. v. HTI Memorial Hospital*, 2005 Tenn. App. LEXIS 575, at *27-28, 2005 WL 2217078, at *9 (Tenn. Ct. App. Sept. 12, 2005) ("While the fact the parties 'agreed' to the amount is relevant, and it is a factor to be considered in order to determine whether the amount was a reasonable estimate at the time the parties entered into the contract, that evidence – the parties' agreement – standing alone does not preponderate against the trial court's specific finding to the contrary").

For the same reasons the tentative ruling is also that Wyndham's 2020 Settlement Agreement with MacMillan and Martin is insufficient. In addition and alternatively, the tentative ruling is that such evidence carries little to no evidentiary weight for the reasons articulated by the Trustee in the claim objections (MacCase dkt. 522, pp.5:26-8:22 & AttitudeCase, dkt. 191, pp.6:5-8:26).

Wyndham also offers the declarations of its vice president, Michael Lazinsk, and David MacMillan in support of its opposition papers. But, as the Trustee highlights, Mr. Lazinski has not established that he has personal knowledge to testify about the subject matter in his declaration (MacCase, dkt. 538, p.9:5-27) and neither declaration offers anything more than legal conclusions regarding the reasonableness of the \$10,000 liquidated damages figure. MacCase, dkt. 528 at PDF p.91, para. "(6)", dkt. 530, p.3, para. "(4)" & AttitudeCase dkt. 196 at PDF p.91, para. "(6)" & dkt. 197, p.3, para. "(4)". Neither of the parties to the settlement testifies to any facts that show how the parties arrived at the \$10,000 figure or how that figure was a reasonable prediction of damages.

There is no testimony from Mr. Lazinsk that, for example, relying on past experience Wyndham calculated that each breach of the 2015

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Settlement Agreement would result in an average of X months of non-payment to Wyndham of \$Y in time share fees per month when one of its unit owners utilized MacMillan's services to transfer their timeshare interests to a so-called "Viking ship" entity, plus \$Z of attorney fees or other damages per breach, all adding up to a "reasonable prediction" of \$10,000 per breach of the 2015 Settlement Agreement. On its face, \$10,000 of damages from every single time Debtors or their affiliates "solicit, contact or communicate with any Wyndham owners" regarding possible transfer of their timeshare interest appears to be an unbelievably high dollar amount. See 2015 Settlement Agreement, ¶ 4(c) (MacCase dkt. 516, Ex. H, at PDF pp. 151 *et seq.*).

This Court notes that Wyndham attempts to justify its \$25,000,000 claim by highlighting that MacMillan previously testified that he successfully orchestrated the transfer of over 100,000 timeshare interests and generated fees estimated at more than \$300,000,000. MacCase, dkt. 528, p.4, Fn.6, AttitudeCase, dkt. 196, p.4, Fn.6. But Wyndham's reliance on these figures is misplaced. Wyndham is improperly attempting to conflate the potential damages MacMillan's actions might have inflicted on consumers with Wyndham's own damages. Standing alone, these figures are meaningless because Wyndham does not include evidence tying those figures to its own damages.

Wyndham does not offer evidence establishing that, for example, but for MacMillan's interference, unit owners would have paid all of that money to Wyndham. Nor does Wyndham account for the fact that many of the alleged 100,000 timeshare interests about which MacMillan bragged were with timeshare businesses other than Wyndham.

Finally, Wyndham argues that a District Court's findings issued in connection with a default judgment Wyndham obtained against TimeShare Relief, Inc. in a different action (Cal. Dist. Ct. case no. 2:18-cv-09036-CJC-AFM) are preclusive on the Trustee's ability to challenge the enforceability of the liquidated damages provision. But Wyndham does not cite to any authority for that proposition. Among other things, Wyndham presumably would have to establish privity between the defendant in that action (TimeShare Relief) and the Trustee or the individual creditors of the MacMillan and Attitude estates, and this Court is not aware of any basis to find such privity, particularly when the Trustee apparently was not served with critical papers and was not on notice of any intent by Wyndham to use the default judgment in that case as a basis for preventing any challenge to its

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claim in this bankruptcy case.

For all of these reasons, the tentative ruling is that Wyndham has not carried its burden.

(B) Even if the Trustee bears the initial burden of proving that the liquidated damages provision is an unenforceable penalty, he has carried that burden

Alternatively, even if the Trustee bears the initial burden to prove that the liquidated damages provision is an unenforceable penalty, the tentative ruling is that he has satisfied that burden. This Court notes the difficulty for any party in having to prove a negative and in doing so parties often rely exclusively on circumstantial arguments and evidence to carry their burden. In this case, the Trustee highlights that Wyndham's own proofs of claim have grown exponentially over time and there is nothing in the 2015 Settlement Agreement or any evidence filed in support of the Claims explaining how the parties arrived at the \$10,000 liquidated damages figure. The Trustee further highlights several facts and circumstances that call into question the reasonableness of that figure. MacCase, dkt. 522, pp.14:14-17:21 & AttitudeCase, dkt. 191, pp.15:1-18:5.

The tentative ruling is that this is sufficient to cast grave doubt about whether the \$10,000 liquidated damages provision was simply a figure pulled from thin air and/or intended to punish parties for any future breaches. See *Beasley*, 864 S.W.2d at 48 ("when there is doubt whether a provision is intended to be liquidated damages or a penalty, the court must construe it as a penalty"). The tentative ruling is that the burden then shifted back to Wyndham to prove that it was not intended to be a penalty and, for the reasons set forth above, Wyndham has not carried that burden.

Therefore, the tentative ruling is to sustain the Trustee's objections and disallow damages arising from the liquidated damages provision without leave to amend.

(C) Wyndham has not carried its burden as to the other possible components of the Claims

As noted above, it is not clear from a review of the documents filed in support of the Claims whether Wyndham also seeks to recover (i) damages arising out of the Debtors' alleged failures to transfer timeshares to Wyndham and to pay the agreed-upon \$375 per unit transferred along with unpaid

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maintenance fees, (ii) attorneys' fees, and (iii) interest. Wyndham's opposition papers do little to clarify these ambiguities. But, because the Trustee does not appear to object to allowance of these categories in some dollar amount but does object to the lack of evidence establishing what that amount should be (MacCase dkt. 522, pp.19:6-20:11 & AttitudeCase, dkt. 191, pp.19:17-20:24), the tentative ruling is to order the parties to mandatory mediation to address these unresolved issues and to discuss the possibility of a global resolution of the Claim Objections.

Proposed order: The Trustee is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 3/22/21: [Note: subsequent to this tentative ruling being posted, the matter was continued per the parties' stipulation and the order thereon. See dkt. 536.]

Appearances required.

This Court is intentionally withholding a tentative ruling so as to not disrupt any possible settlement discussions but is prepared to give a comprehensive oral ruling, or a supplemental written tentative ruling, if the parties have not resolved their disputes by the start of the hearing.

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Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr
Christian T Kim

Peter J Mastan (TR)

Pro Se

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2:19-10552 Attitude Marketing, Inc.

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#2.00 Cont'd hrg re: Trustee's Objection to Amended Claim of Wyndham
Vacation Resorts, Inc.
fr 3/23/21

Docket 191

Tentative Ruling:

Tentative Ruling for 4/6/21:

Please see the tentative ruling for the case status conference for the
MacMillan/Martin bankruptcy case (Calendar No. 1, 4/6/21 at 2:00 p.m.).

Tentative Ruling for 3/23/21:

Please see the tentative ruling for the case status conference for the
MacMillan/Martin bankruptcy case (Calendar no. 1, 3/23/21 at 2:00 p.m.).

Party Information

Debtor(s):

Attitude Marketing, Inc.

Represented By
James A Dumas Jr
Christian T Kim

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
Christian T Kim
James A Dumas Jr

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2:20-18530 Socorro Evelina Garcia

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#3.00 Cont'd hrg re: Motion to Set Aside State Court Default Judgment for Violation of the Automatic Stay fr. 2/9/21

Docket 24

Tentative Ruling:

Tentative Ruling for 4/6/21:

Continue as set forth below. Appearances are not required on 4/6/21.

(1) Current issues

(a) Contempt/Sanctions motion (dkt. 24, 25), Opposition of Jordan Jarvis and Dixon G. Kummer, Esq ("Respondents") (dkt. 30), Debtor's reply (dkt. 31), interim order (dkt. 32), Debtor's notice of errata (dkt. 34), Dixon declaration (dkt. 35), Order assigning matter to mediation (dkt. 36) & proof of service (dkt. 38)

This Court has reviewed Debtor's declaration filed in the Removed Action (adv. dkt. 4) stating that she has been unable to reach the Court's designated mediator and the alternate mediator is unavailable to mediate the parties' dispute.

The tentative ruling is to continue the status conference as set forth below (see Section (2)(a) below) and set the following deadlines for the selection of a different mediator: (i) **4/13/21** for the parties to meet and confer to select a different mediator, (ii) **4/16/21** for the parties to confirm the availability and willingness of their proposed mediator, and (iii) **4/20/21** for the parties to file a status report with their chosen mediator and telephone Chambers to let Judge Bason's staff know that the status report has been filed.

Once this Court reviews the parties' status report this Court will prepare and issue an amended order assigning the matter to mediation.

(b) Jarvis v. Garcia (Adv. No. 2:21-ap-01006-NB, the "Removed Action"), Debtor's declaration (adv. dkt. 4)

The tentative ruling is to stay this proceeding pending conclusion of the parties' mediation efforts and set a continued status conference concurrent

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with the continued status conference (See Section (2)(a) below).

(2) Deadlines/dates. This case was filed on 9/18/20.

(a) Continued status conference: 6/15/21 at 2:00 p.m. No written status report required.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 2/9/21:

Appearances required.

The tentative ruling is to grant the motion and impose sanctions as set forth below.

Proposed order: Debtor is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Key documents reviewed (in addition to motion papers, dkt. 24, 25):

Opposition of Jordan Jarvis and Dixon G. Kummer, Esq ("Respondents") (dkt. 30), Debtor's reply (dkt. 31), interim order (dkt. 32), Debtor's notice of errata (dkt. 34), as of the preparation of this tentative ruling no response has been filed by Jeff or Linda Jarvis.

Analysis:

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(1) Background

Debtor moves for an order setting aside a state court default judgment and for damages arising from violations of the automatic stay under 11 U.S.C. 362(k). On 1/29/21, this Court entered an "Emergency Order: (1) Granting Partial Relief on Debtor's Motion to Set Aside Default Judgment on an Interim Basis, and (2) Directing Respondents to (I) Cease All Eviction Efforts and Related Acts, (II) Instruct Any Persons Aiding Them in Those Efforts to Cease all Such Efforts, and (III) Appear and Address the Stay Violation Issues and the Appropriate Amount of Damages" (dkt. 32, the "Interim Order"). The Interim Order sets forth the facts relevant to this dispute as well as the applicable law and this Court's interim findings and conclusions, which this Court incorporates by reference and will not repeat here. (Errata: This Court hereby corrects one non-material error in the Interim Order: the phrase "nearly a month later" (*id.*, p.2:27) is amended to read "over two months later.")

(2) The default judgment is void

For the reasons stated in the Interim Order, the tentative ruling is to confirm that the Default Judgment is void and of no legal effect because it was entered on 12/8/20 in violation of the automatic stay that was in effect as of the date of entry of the judgment. See Dkt. 25, Ex.3; see also *In re Wardrobe*, 559 F.3d 932, 934 (9th Cir. 2009) (judicial proceedings in violation of the automatic stay are also void); *In re Gruntz*, 202 F.3d 1074, 1082 (9th Cir. 2000) (*en banc*) ("actions taken in violation of the automatic stay are void. Further, '[j]udicial proceedings in violation of th[e] automatic stay are void.' . . . As the Supreme Court explained in *Kalb [v. Feuerstein]*, 308 U.S. 433, 443 (1940)], discussing the weaker predecessor statute to 11 U.S.C. § 362(a), '[b]ecause that State court had been deprived of all jurisdiction or power to proceed ... [all acts by creditor]-to the extent based upon the [State] court's actions-were all without authority of law.'" (citations omitted); *In re Schwartz*, 954 F.2d 569, 571 (9th Cir. 1992) ("It is well established that acts in violation of the automatic stay are void *ab initio* and have no force or effect").

(3) Debtor is entitled to recover damages arising from Respondents' willful violation of the automatic stay (11 U.S.C. § 362(k))

Section 362(k)(1) provides, "...an individual injured by any willful violation of a stay provided by this section shall recover actual damages,

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including costs and attorneys' fees, and, in appropriate circumstances, may recover punitive damages." 11 U.S.C. 362(k)(1).

A willful violation is satisfied if a party knew of the automatic stay, and that party's actions in violation of the automatic stay were intentional. *In re Bruel*, 533 B.R. 782, 787 (Bankr. C.D. Cal. 2015) (citation *Eksanos & Adler, P.C. v. Leetien*, 309 F.3d 1210, 1215 (9th Cir. 2002)). "Once a creditor has knowledge of the bankruptcy, it is deemed to have knowledge of the automatic stay." *Id.* Even if a party violates the stay inadvertently, once it becomes clear that a stay violation has occurred it is the duty of the party violating the stay to remedy the stay violation. *In re Stefani*, 2019 Bankr. LEXIS 481, at *21, 2019 WL 762661, at *8 (Bankr. S.D. Cal. Feb. 15, 2019) (citing *In re Roman*, 283 B.R. 1, 12 (9th Cir. BAP 2002) (creditor has the burden both to establish administrative safeguards to prevent stay violations and to restore the status quo by undoing them); *In re Dyer*, 322 F.3d 1178, 1192 (9th Cir. 2003) (knowledge of a stay violation created an "affirmative duty to remedy [the] automatic stay violation")).

The tentative ruling is that Debtor's evidence is insufficient to establish that Respondents knew Debtor's bankruptcy case had been reinstated when they obtained the Default Judgment because the Certificate of Notice of the Order Reinstating the Case does not reflect service on Respondents (dkt. 21) and Debtor has not submitted any evidence establishing that Respondents received notice in some other way prior to 12/8/20 when the Default Judgment was entered.

But Respondents do not dispute that they were made aware of this Court's Order Reinstating Case on December 15, 2020 when Debtor's counsel e-mailed them to notify them that the Default Judgment was void as a violation of the automatic stay and to request that Respondents take steps to vacate the default judgment. Dkt. 25, Ex.4 & Dkt. 30, p.2:24-26. Therefore, the tentative ruling is that Debtor has shown by a preponderance of the evidence that Respondents had actual notice of Debtor's bankruptcy filing and of the automatic stay no later than December 15, 2020.

The tentative ruling is also that because the Default Judgment was void *ab initio* (*Schwartz*, 954 F.2d 569, 571), the real property that is the subject of that action is property of Debtor's bankruptcy estate and continues to be subject to the automatic stay. See 11 U.S.C. 362(a)(3), (6) and 541(a)(1). As a result, Respondents' efforts to enforce the Default Judgment were intentional, willful and in violation of the automatic stay. The tentative ruling,

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based on Debtor's unrefuted evidence, is that Respondents:

(a) failed to take any actions to have the Default Judgment vacated despite having an affirmative obligation to do so (dkt. 25, p.13:17-24; *see also* dkt. 30, p.3:5-13);

(b) engaged in efforts to lock out and evict Debtor and her daughter from the real property that is the subject of the Default Judgment by changing the locks and posting a 60-day notice to vacate and a notice of termination of tenancy for no-fault just cause (dkt. 25, pp. 13:25-14:3, 17:17-18:11 & Ex. 5, 8, 9);

(c) seized Debtor's and her daughter's personal property (dkt. 25, pp. 14:26-15:25 & 17:3-19:10); and

(d) threatened and harassed Debtor and her daughter with the specific intent of trying to intimidate them to vacate the subject property and turn over full possession to Mr. Jarvis. Dkt. 25, pp. 14:4-25, 15:15-20 & Ex.6 & 7. (Debtor and her daughter also allege harassment of the boyfriend of Debtor's daughter, but there is no declaration from him, and although there is no hearsay objection this Court has discretion to require non-hearsay evidence even when respondents have failed to raise any hearsay objection. *See* Rule 55(b)(2), Fed. R. Civ. P. (incorporated by Rules 7055 & 9014(c), Fed. R. Bankr. P.))

(4) Damages

"The words 'shall recover' indicate that Congress intended that the award of actual damages, costs and attorney's fees be mandatory upon a finding of willful violation of the stay." *In re Ramirez*, 183 B.R. 583, 589 (9th Cir. BAP 1995) (internal citations omitted).

(a) Actual damages/Attorney's fees

Section 362(k)(1) is a fee-shifting statute that entitles debtor not only to attorney's fees and costs incurred in ending a stay violation, but also to fees and costs incurred in prosecuting an action for damages from a stay violation and in successful defending a damages award on appeal. *In re Schwartz-Tallard*, 803 F.3d 1095, 1099-1101 (9th Cir. 2015) (internal citations omitted); *see also In re Moon*, 2021 Bankr. LEXIS 27 at *10, 2021 WL 62629 at *10 (9th Cir. BAP Jan. 7, 2021) ("attorney's fees and costs are 'incurred' even when the plaintiff is not personally liable for them") (citations omitted).

In support of her motion and reply papers, Debtor submitted evidence establishing \$6,554 in damages as follows: (1) \$1,700 to prepare and file the

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Stay Violation Motion (dkt. 25, p.15:11-13); (2) \$500 to prepare and file her reply in support of the Stay Violation Motion and to file a notice of removal of the State Court Action (dkt. 31, p.6:13-15); (3) \$1,500 in attorney's fees incurred having to defend against Department of Real Estate complaint Mr. Jarvis filed against Debtor (dkt. 25, p.15:15-20); and (4) \$2,854 to reimburse Debtor's daughter and Debtor's daughter's boyfriend for theft of property that Debtor is responsible for reimbursing (dkt. 25, p.15:21-25).

The tentative ruling is that Debtor is entitled to an award of actual damages, including attorney's fees and costs, of \$6,554, payable jointly and severally by the Respondents.

(b) Emotional distress damages

To be entitled to damages for emotional distress under section 362(k), an individual must (1) suffer a significant harm, (2) clearly establish the significant harm, and (3) demonstrate a causal connection between that harm and the violation of the automatic stay. *In re Dawson*, 390 F.3d 1139, 1148-49 (9th Cir. 2004). "Fleeting or trivial anxiety or distress does not suffice to support an award; instead, an individual must suffer significant emotional harm." *Id.* (citations omitted).

An individual may establish emotional distress damages in a number of ways, such as by providing corroborating medical evidence or by submitting testimony or declarations from family members, friends or coworkers. *Id.* at 1149-50. Additionally, in some cases, "significant emotional distress may be readily apparent even without corroborative evidence" such as instances where the violator has engaged in egregious conduct. *Id.* Alternatively, "even if the violation of the automatic stay was not egregious, the circumstances may make it obvious that a reasonable person would suffer significant emotional harm." *Id.*

In support of the Stay Violation Motion, Debtor submitted her declaration in which she states "Emotional Distress/Punitive; It is hard to measure these. However, the emotional impact has been tremendous, while myself and my family are being harassed no end. I believe that emotional distress punitive damages are warranted" Dkt. 25, p.15:27-16:2. The tentative ruling is that this is insufficient to warrant the imposition of emotional distress damages.

(c) Punitive damages

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Section 362(k) authorizes an award of punitive damages "in appropriate circumstances." 11 U.S.C. 362(k)(1). "An award of punitive damages requires some showing of reckless or callous disregard for the law or rights of others" or "where the conduct is malicious, wanton, or oppressive." *In re Snowden*, 769 F.3d 651, 657 (9th Cir. 2014). "Courts have also imposed punitive damages for arrogant defiance of the automatic stay." *In re Stefani*, 2019 Bankr. LEXIS 481, at * 22-23, 2019 WL 762661, at *8 (Bankr. S.D. Cal. Feb. 15, 2019) (emphasis added) (citing *In re Jean-Francois*, 532 B.R. 449, 459 (Bankr. E.D.N.Y. 2015); *In re Diviney*, 211 B.R. 951 (Bankr. N.D. Okla. 1997)). "The Court in considering an award of punitive damages, thus, needs to find that the violator did more than violate the stay through mere negligence or inattention." *Id.* at *8. "The amount of a punitive damage award is also fact-specific and within the discretion of a Bankruptcy Court." *Id.* (citation omitted). In determining whether to impose punitive damages under [section] 362(k), bankruptcy courts have considered the nature of the creditor's conduct, the creditor's ability to pay, the motives of the creditor, any provocation by the debtor, and the creditor's level of sophistication." *Id.* (emphasis added).

The tentative ruling is that punitive damages are appropriate for several reasons. First, Respondents' refusal to remedy the stay violation is ongoing and intentional. Second, Respondents' three-page opposition is not supported by any citation to legal authority and Respondents do not even attempt to deny Debtor's allegations or refute Debtor's evidence with declarations or other evidence. Their papers reflect a complete indifference to educate themselves on applicable bankruptcy law and/or a willful and callous disregard of the automatic stay and this Court's authority. Third and finally, their willful stay violations are numerous and malicious—they have willfully refused to take steps to vacate the Default Judgment and instead have changed the locks and posted notices of eviction on the property, they have sent threatening and intimidating messages to Debtor and her family members and attempted to enforce prepetition claims against Debtor, with the additional apparent intent to destroy Debtor's ability to earn an income, by filing lawsuits against her and contacting her employer.

Respondents should be prepared to address whether there are any grounds why this Court should not impose **\$7,000** in punitive damages

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against them, jointly and severally, for their egregious behavior.

(5) Caveat

As always, tentative rulings are just that - tentative. In addition, this Court's Interim Order (dkt.32, p.6:10-12) prohibited any further briefing. All rights are reserved to argue why this Court should or should not permit further briefing. In addition, this Court has the power to order mandatory mediation of parties before it, and the parties should be prepared to address whether this Court should do so.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Socorro Evelina Garcia

Represented By
Nathan A Berneman

Movant(s):

Socorro Evelina Garcia

Represented By
Nathan A Berneman

Trustee(s):

Elissa Miller (TR)

Pro Se

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Adv#: 2:21-01006 Jarvis v. Garcia et al

#4.00 Cont'd status conference re: Removal
fr. 3/23/21

Docket 1

Tentative Ruling:

Tentative Ruling for 4/6/21:

Please see the tentative ruling for the bankruptcy status conference (Calendar No. 3, 4/6/21 at 2:00 p.m.).

Tentative Ruling for 3/23/21:

Continue this matter to 4/6/21 at 2:00 p.m. concurrent with the hearing on Debtor's motion to set aside state court default and for violation of the automatic stay (2:20-bk-18530-NB, dkt. 25). Appearances are not required on 3/23/21.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Socorro Evelina Garcia

Represented By
Nathan A Berneman

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 6, 2021

Hearing Room 1545

2:00 PM

CONT... Socorro Evelina Garcia

Chapter 7

Defendant(s):

Socorro Garcia Pro Se

DOES 1 through 20, inclusive Pro Se

Plaintiff(s):

Jordan Jarvis Pro Se

Trustee(s):

Elissa Miller (TR) Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 6, 2021

Hearing Room 1545

2:00 PM

2:19-23664 Liat Talasazan

Chapter 7

#5.00 Cont'd Hrg re: Motion for Turnover of Property of the Estate
Pursuant to 11 U.S.C. § 542 35th Street Properties
fr 3/23/21

Docket 543

Tentative Ruling:

Tentative Ruling for 4/6/21:

Please see the tentative ruling for the status conference (Calendar No. 7, 4/6/21 at 2:00 p.m.).

Tentative Ruling for 3/23/21:

Please see the tentative ruling for the status conference (Calendar No. 6, 3/23/21 at 2:00 p.m.).

Party Information

Debtor(s):

Liat Talasazan

Represented By
Giovanni Orantes
Luis A Solorzano

Trustee(s):

Caroline Renee Djang (TR)

Represented By
David Wood

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 6, 2021

Hearing Room 1545

2:00 PM

2:19-23664 Liat Talasazan

Chapter 7

#6.00 Cont'd hrg re: Emergency Motion for Order (1) Directing the United States Marshal or Other Appropriate Law Enforcement Agency to Evict the Debtor, Her Parents and/or Any and All Other Occupants From the Real Property Located at 636 N. Laurel Ave., Los Angeles, CA 90048; and (2) Issuing an Order to Show Cause Re Contempt
fr. 10/27/20, 12/1/20, 12/22/20, 2/9/21, 03/02/21, 3/23/21

Docket 318

Tentative Ruling:

Tentative Ruling for 4/6/21:

Please see the tentative ruling for the status conference (Calendar No. 7, 4/6/21 at 2:00 p.m.).

Tentative Ruling for 3/23/21:

Please see the tentative ruling for the status conference (Calendar No. 6, 3/23/21 at 2:00 p.m.).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Liat Talasazan

Represented By
Giovanni Orantes
Luis A Solorzano

Movant(s):

Caroline Renee Djang (TR)

Pro Se

Trustee(s):

Caroline Renee Djang (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 6, 2021

Hearing Room 1545

2:00 PM

2:19-23664 Liat Talasazan

Chapter 7

#7.00 Cont'd Status Conference re: Chapter 7 Case
fr. 1/28/20, 2/18/20, 3/3/20, 3/10/20, 03/31/20,
4/7/20, 5/12/20, 5/19/20, 6/2/20, 6/16/20, 7/28/20,
8/18/20, 9/1/20, 9/15/20, 9/29/20, 10/27/20, 12/1/20,
12/22/20, 2/9/21, 03/02/21, 3/23/21

Docket 49

Tentative Ruling:

Tentative Ruling for 4/6/21:

Appearances required.

(1) Current issues

(a) Subchapter V Trustee's motion re eviction/contempt (dkt. 318, 319, the "Eviction/OSC Motion"), 319, Debtor & Orantes declarations (dkt. 320, 322), Orantes declaration (dkt. 322), Order shortenting time (dkt. 323) and POS (dkt. 326), Trustee declaration (dkt. 328), Debtor & Orantes declarations & opposition (dkt. 329, 330, 331), Trustee's declaration re compensatory sanctions (dkt. 335), order imposing compensatory sanctions (dkt. 400); further declarations re compensatory sanctions (dkt.573, 574)

The parties are directed to update this Court on the status of this motion and address whether any additional relief is appropriate.

(b) Subchapter V Trustee's Motion for turnover of 35th Street Properties, accounting re Jefferson property, etc. (dkt. 543, 544), Debtor's response (dkt. 562), Oxygen's joinder (dkt. 568), Subchapter V Trustee's reply (dkt. 569, 570)

The parties are directed to update this Court on the status of this motion and address whether any additional relief is appropriate.

Proposed orders: The Trustee is directed to lodge proposed orders reflecting any other disposition of the above items, beyond mere continuance, via LOU within 7 days after the hearing date, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

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Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, April 6, 2021

Hearing Room 1545

2:00 PM

CONT...

Liat Talasazan

Chapter 7

(2) Deadlines/dates. This case was filed on 11/20/19, converted from chapter 13 to chapter 11 on 1/2/20, designated by Debtor as a Subchapter V case on 3/2/20 (dkt.128), and converted to chapter 7 on 12/1/20 (dkt. 412).

(a) Continued status conference: 4/27/21 at 2:00 p.m. No written status report required.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 3/23/21:

Appearances required.

(1) Current issues

(a) Subchapter V Trustee's motion for turnover of Laurel Property (dkt. 280), Debtor's opposition (dkt. 285), Michael Tremblay's response (dkt. 291), Interim Turnover Order (dkt. 300)

The parties are directed to update this Court on the status of this motion and address whether any additional relief is appropriate. The tentative ruling is to take this matter off calendar, without prejudice to the Chapter 7 Trustee placing it back on calendar on 14 days' notice (and direct the Trustee to lodge a proposed order memorializing such shortened notice). On the other hand, if continuance of this matter is appropriate, the tentative ruling is for such continuance to be concurrent with the continued status conference (see below, section "(2)(a)").

(b) Subchapter V Trustee's motion re eviction/contempt (dkt. 318, 319, the "Eviction/OSC Motion"), 319, Debtor & Orantes declarations (dkt. 320,

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, April 6, 2021

Hearing Room 1545

2:00 PM

CONT...

Liat Talasazan

Chapter 7

322), Orantes declaration (dkt. 322), Order shortenting time (dkt. 323) and POS (dkt. 326), Trustee declaration (dkt. 328), Debtor & Orantes declarations & opposition (dkt. 329, 330, 331), Trustee's declaration re compensatory sanctions (dkt. 335), order imposing compensatory sanctions (dkt. 400); further declarations re compensatory sanctions (dkt.573, 574)

The parties are directed to update this Court on the status of this motion and address whether any additional relief is appropriate. The tentative ruling is to continue this matter to be concurrent with the continued status conference (see below, section "(2)(a)", with a **deadline of 3/30/21** for Debtor to respond to the latest declarations re compensatory sanctions (dkt.573, 574), and a **deadline of 4/6/21** for the Trustee's reply.

(c) Subchapter V Trustee's Motion for turnover of 35th Street Properties, accounting re Jefferson property, etc. (dkt. 543, 544), Debtor's response (dkt. 562), Oxygen's joinder (dkt. 568), Subchapter V Trustee's reply (dkt. 569, 570)

The tentative ruling is to overrule Debtor's opposition, grant the motion, and set a **deadline of 3/30/21** for Debtor and any other persons in possession, custody or control of property of the estate to comply with the Trustee's requests in the motion (for turn over and to provide an accounting etc.).

If they fail to do so, the Trustee may file a declaration and any other appropriate papers and lodge a proposed order setting a hearing concurrent with the continued status conference (see below, section "(2)(a)") directing Debtor and any other persons believed to be in possession, custody or control of property of the estate to appear and show cause why they should not be held in contempt and sanctioned for their failure to comply with this Court's turnover order.

Proposed orders: The Trustee is directed to lodge proposed orders reflecting any other disposition of the above items, beyond mere continuance, via LOU within 7 days after the hearing date, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 11/20/19, converted from chapter 13 to chapter 11 on 1/2/20, designated by Debtor as a Subchapter V case on 3/2/20 (dkt.128), and converted to chapter 7 on 12/1/20 (dkt. 412).

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, April 6, 2021

Hearing Room 1545

2:00 PM

CONT...

Liat Talasazan

Chapter 7

(a) Continued status conference: 5/4/21 at 2:00 p.m. No written status report required.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED (see Memorialization of Tentative Rulings, dkt.208 (filed 5/19/20) and dkt.303 (filed 9/21/20). See also Order Denying Motion for Stay (dkt.441, as amended by dkt.442).]

Party Information

Debtor(s):

Liat Talasazan

Represented By
Giovanni Orantes
Luis A Solorzano

Trustee(s):

Caroline Renee Djang (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 6, 2021

Hearing Room 1545

2:00 PM

2:20-18895 Bethany Senior Housing II, LP

Chapter 11

#8.00 Cont'd Status Conference re: Chapter 11 Case
fr. 10/27/20, 12/1/20, 1/26/21, 2/9/21

Docket 1

Tentative Ruling:

Tentative Ruling for 4/6/21:

Appearances required.

(1) Current issues

(a) Debtor's Proposed Plan

As of the date this tentative ruling was prepared, no plan has been filed. There is no tentative ruling, but Debtor should be prepared to address what progress it has made towards proposing a plan of reorganization, if any.

(2) Deadlines/dates. This case was filed on 9/30/20.

(a) Bar date: 12/15/20 (dkt. 15; timely served, dkt. 17).

(b) Procedures order: dkt. 2 (notice at dkt. 16)

(c) Plan/Disclosure Statement: TBD (if relevant). See the **revised**

"Procedures of Judge Bason" (available at www.cacb.uscourts.gov) (search for "Chapter 11: Plan").

(d) Continued status conference: 5/4/21 at 2:00 p.m. No written status report is required.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, April 6, 2021

Hearing Room 1545

2:00 PM

CONT... **Bethany Senior Housing II, LP**
permitted.

Chapter 11

Tentative Ruling for 2/9/21:
Appearances are not required.

(1) Current issues

(a) Creditor Los Angeles County Treasurer and Tax Collector's ("County") Motion for Relief from the Automatic Stay (dkt. 25), Debtor's Opposition (dkt. 29), County's Reply (dkt. 31).

Grant, for the reasons stated in County's papers.

Proposed order: County is directed to lodge a proposed orders via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1) (B).

(2) Deadlines/dates. This case was filed on 9/30/20.

(a) Bar date: 12/15/20 (dkt. 15; timely served, dkt. 17).

(b) Procedures order: dkt. 2 (notice at dkt. 16)

(c) Plan/Disclosure Statement: TBD (if relevant). See the **revised** "Procedures of Judge Bason" (available at www.cacb.uscourts.gov) (search for "Chapter 11: Plan").

(d) Continued status conference: 4/6/21 at 2:00 p.m. No written status report is required.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 6, 2021

Hearing Room 1545

2:00 PM

CONT... Bethany Senior Housing II, LP

Chapter 11

Party Information

Debtor(s):

Bethany Senior Housing II, LP

Represented By
Simon J Dunstan

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, April 22, 2021

Hearing Room 1545

8:00 AM
2:00-00000

Chapter

#0.00 ZoomGov Instructions for all matters on today's calendar:

Meeting ID: 160 716 3804

Password: 898352

Meeting URL: <https://cacb.zoomgov.com/j/1607163804>

Telephone: +1 669 254 5252 or +1 646 828 7666 or 833 568 8864 (Toll Free)

Please connect at least 5 minutes before the start of your hearing, and wait with your microphone muted until your matter is called. You do not need to call Chambers for advance approval. ZoomGov appearances are free

Docket 0

Tentative Ruling:

- NONE LISTED -

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, April 22, 2021

Hearing Room 1545

8:30 AM

2:18-10776 Alfredo Medina and Jen G Morales

Chapter 13

#1.00 Hrg re: Motion under Local Bankruptcy Rule 3015-1 (n)
and (w) to modify plan or suspend plan payments

Docket 53

Tentative Ruling:

Appearances required, absent either (1) an agreement with the Chapter 13 Trustee's office to further continue this matter or (2) withdrawal of the motion by Debtor. There is no tentative ruling, but the parties should be prepared to address the issues raised by the Chapter 13 Trustee (dkt. 55).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Alfredo Medina

Represented By
Julie J Villalobos

Joint Debtor(s):

Jen G Morales

Represented By
Julie J Villalobos

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Thursday, April 22, 2021

Hearing Room 1545

8:30 AM

CONT... Alfredo Medina and Jen G Morales

Chapter 13

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, April 22, 2021

Hearing Room 1545

8:30 AM

2:19-21677 Jan Michael Foster

Chapter 13

#2.00 Hrg re: Motion under Local Bankruptcy Rule 3015-1 (n)
and (w) to modify plan or suspend plan payments

Docket 61

Tentative Ruling:

Appearances required, absent either (1) an agreement with the Chapter 13 Trustee's office to further continue this matter or (2) withdrawal of the motion by Debtor. There is no tentative ruling, but the parties should be prepared to address the issues raised by the Chapter 13 Trustee (dkt. 63).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Jan Michael Foster

Represented By
Stephen L Burton

Trustee(s):

Kathy A Dockery (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar

Thursday, April 22, 2021

Hearing Room 1545

8:30 AM

2:18-24137 Toni Leigh Rose

Chapter 13

#3.00 Hrg re: Motion for Suggestion of Death; for Substitution as the Representative for or Successor to the Deceased Debtor; and for Continued Administration of the Case

Docket 77

Tentative Ruling:

Appearances are not required.
Grant.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Toni Leigh Rose

Represented By
Steven A Alpert

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, April 22, 2021

Hearing Room 1545

8:30 AM

2:21-10039 Dwayne Herbert Baudy

Chapter 13

#4.00 Hrg re: Motion for Debtor's Objection to the Proof of Claims #5-1
Filed by Nationstar Mortgage LLC d/b/a Mr. Cooper

Docket 31

Tentative Ruling:

Appearances required.

Grant in part and deny in part as set forth below.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

At the hearing, counsel for Debtor is directed to address the following issues:

(1) No copy of claim

Debtor failed to attach a copy of the claim, as required by LBR 3007-1(c)(2). Why did Debtor's counsel fail to comply with that rule?

(2) Dollar amounts do not match

Debtor's objection includes a copy of a check for \$1,340.00 (dkt. 31, Ex.1, at PDF p.18). But the proof of claim (Claim No. 5-1) asserts that as of the petition date the arrears were \$2,108.60. How can Debtor assert that \$1,340.00 cures \$2,108.60?

(3) Illegible endorsements

Whatever endorsements might or might not appear on the back of Debtor's copy of the check are illegible, so it is unclear whether the check cleared and whether claimant has received the funds at issue (and is holding those funds in a suspense account). Why did Debtor's counsel not provide a legible copy of the back of the check?

(4) Fees

The tentative ruling is that Debtor's counsel should not charge any fees for appearing at this hearing, because such appearance would not be necessary if counsel had prepared the claim objection in a manner that did not violate the LBR and otherwise addressed the foregoing deficiencies.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, April 22, 2021

Hearing Room 1545

8:30 AM

CONT...

Dwayne Herbert Baudy

Chapter 13

(5) Sustain in part; overrule in part

Notwithstanding the foregoing, this Court notes the following:

(a) Request for \$0.00 arrears

Debtor's claim objection requests an order deeming the proof of claim amended "to reflect the 'Cure Default Amount' claim as \$0.00" (dkt.31, p.3:13-14).

(b) No objection by claimant

No response has been filed by the claimant, so apparently it does not object to having its arrears treated as \$0.00 (or, at least, any objection would not be worth the cost of the attorney fees).

(c) Ability to amend the claim later

It is typical in this district for the holders of secured claims to amend their proofs of claim after confirmation of any plan. Therefore, the tentative ruling is that there will be no prejudice if the arrears are determined to be \$0.00 for present purposes (*i.e.*, so that Debtor can obtain confirmation of his proposed chapter 13 plan), without prejudice to the claimant later amending its proof of claim, after it has determined what deficiency might exist, to add any such deficiency to its proof of claim (*e.g.*, so that any shortfall is paid at the end of the term).

(6) Conclusion

To the foregoing extent, the tentative ruling is to sustain the claim objection - *i.e.*, the arrears will be treated as \$0.00 for present purposes. To the extent that Debtor seeks any additional relief, the tentative ruling is to overrule the claim objection.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, April 22, 2021

Hearing Room 1545

8:30 AM

CONT... Dwayne Herbert Baudy

Chapter 13

Party Information

Debtor(s):

Dwayne Herbert Baudy

Represented By
Kahlil J McAlpin

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, April 22, 2021

Hearing Room 1545

8:30 AM

2:21-10599 John Ejike Nibo

Chapter 13

#5.00 Hrg re: East West Bank's Motion To Dismiss This Case

Docket 25

Tentative Ruling:

Appearances are not required.

Grant the motion and dismiss this case with a permanent bar against being a debtor in any future bankruptcy case, absent an order of this Court lifting that bar (also known as a dismissal "with prejudice") for the reasons set forth in the motion papers (dkt. 25, 26) and Debtor's lack of opposition.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Further analysis

Without limiting the foregoing reasons, dismissal with a bar is warranted by Debtor's failure properly to list Movant's lien in his bankruptcy schedules and proposed chapter 13 plan, his failure properly to list his debt to the People of the State of California in the same documents, his inability to fund any plan (in chapter 11 or 13) due to negative income, and his ineligibility for chapter 13. Those things establish that Debtor has misrepresented facts, unfairly manipulated the Bankruptcy Code, has otherwise filed his petition and plan in an inequitable manner, is attempting to use this bankruptcy case to defeat state court litigation, and has exhibited egregious behavior.

The foregoing relief is warranted pursuant to 11 U.S.C. §§ 105(a), 109(e) & (g)(1), 349(a), 1307(c) and, alternatively, pursuant to this court's inherent powers to manage its own docket. See *In re Glover*, 537 Fed.Appx. 741 (9th Cir. 2013) (affirming dismissal with a five-year bar to refiling under 11 U.S.C. § 105(a); *In re Leavitt*, 171 F.3d 1219 (9th Cir. 1999) (affirming dismissal with prejudice based on finding of bad faith, considering whether debtor misrepresented facts, unfairly manipulated Code, or otherwise filed his petition or plan in inequitable manner; debtor's history of filings and dismissals; whether the debtor intended to defeat state court litigation; and

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Thursday, April 22, 2021

Hearing Room 1545

8:30 AM

CONT... **John Ejike Nibo**

Chapter 13

whether egregious behavior is present).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

John Ejike Nibo

Represented By
Stephen L Burton

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, April 22, 2021

Hearing Room 1545

8:30 AM

2:17-23156 Robin Kashmire Roane

Chapter 13

#6.00 Hrg re: Application for Compensation for Supplemental Fees for Barry E Borowitz

Docket 47

Tentative Ruling:

Grant, for the reasons set forth in counsel's declaration (dkt. 52) in response to this Court's order setting this matter for hearing (dkt. 49). Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1) (B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Robin Kashmire Roane

Represented By
Barry E Borowitz

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, April 22, 2021

Hearing Room 1545

8:30 AM

2:17-19762 Robert E Read

Chapter 13

#7.00 Cont'd hrg re: Motion to Dismiss Case for Failure
to Pay Post-Confirmation Taxes
fr. 3/18/21

Docket 110

Tentative Ruling:

Tentative Ruling for 4/22/21:
Appearances required.

Based on a review of Debtor's opposition papers (dkt. 114), this Court was persuaded to continue the 3/18/21 hearing to this date to allow Debtor a brief opportunity to explore potential options to address the outstanding postpetition taxes. There is no tentative ruling. Debtor should be prepared to update this Court on the status of his investigations and whether he has a viable option to address the outstanding postpetition taxes.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 3/18/21:

Continue to 4/22/21 at 8:30 a.m. to allow Debtor a brief opportunity to explore potential options to address the outstanding postpetition taxes. That continuance should not be misconstrued as any authorization to continue non-payment of taxes. Appearances are not required on 3/18/21.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, April 22, 2021

Hearing Room 1545

8:30 AM

CONT... Robert E Read

Chapter 13

Key documents reviewed (in addition to motion papers): Debtor's opposition (dkt. 114), reply of United States on behalf of Internal Revenue Service (dkt. 115).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Robert E Read

Represented By
Donna R Dishbak

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, April 22, 2021

Hearing Room 1545

8:30 AM

2:17-24084 Kip Scott Rolfe

Chapter 13

#8.00 Cont'd hrg re: Objection to Claim Number 11
by Claimant Internal Revenue Service
fr. 1/21/21, 2/18/21

Docket 74

***** VACATED *** REASON: Order approving cont'd hrg to 7/22/21 at
8:30 a.m. [dkt. 95]**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Kip Scott Rolfe

Represented By
Thomas B Ure

Movant(s):

Kip Scott Rolfe

Represented By
Thomas B Ure

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, April 22, 2021

Hearing Room 1545

8:30 AM

2:20-15577 Bela Janos Cseh

Chapter 13

#9.00 Cont'd hrg re: Objection to Claim Number 1 by Claimant Deutsche Bank National Trust Company, as Trustee for Morgan Stanley Dean Witter Capital I Inc. Trust 2002-AM3 Mortgage Pass-Through Certificates, Series 2002-AM3 fr. 11/19/20, 1/21/21, 3/18/21

Docket 31

Tentative Ruling:

Tentative Ruling for 4/22/21:

A continued hearing on this matter was previously set for 3/18/21, but was continued due to the parties' apparent settlement (see dkt. 42). The tentative ruling is to direct Debtor **no later than 4/29/21** either (a) to file a withdrawal of this claim objection or (b) to lodge a proposed order denying this objection to claim #1 without prejudice, pursuant to the parties' settlement reflected in the mediator's certificate (dkt. 42) and Debtor's subsequent proposed chapter 13 plan (dkt. 43 at PDF p.8). Appearances are not required.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 3/18/21:

Continue to 4/22/21 at 8:30 a.m. in view of the parties' settlement reported by the mediator (dkt. 42). The continuance is intended to provide the parties time to do whatever is needed to implement that settlement (*e.g.*,

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, April 22, 2021

Hearing Room 1545

8:30 AM

CONT...

Bela Janos Cseh

Chapter 13

documenting their settlement, filing any amended proof of claim, and/or filing and serving any motion to approve a compromise, if one were to be required under Rule 9019, Fed. R. Bankr. P. - this Court expresses no view which of these acts, if any, might be required). Appearances are not required on 3/18/21.

Note: This Court anticipates that the continued hearing might well go off calendar if whatever the parties do moots this claim objection (or if Debtor files a withdrawal of this claim objection).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Bela Janos Cseh

Represented By
Donna R Dishbak

Movant(s):

Bela Janos Cseh

Represented By
Donna R Dishbak
Donna R Dishbak

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, April 22, 2021

Hearing Room 1545

8:30 AM

CONT...

Bela Janos Cseh

Chapter 13

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, April 22, 2021

Hearing Room 1545

8:30 AM

2:20-15627 Tonya Elaine Crawford

Chapter 13

#10.00 Cont'd hrg re: Motion to Avoid Lien Junior Lien
with Trojan Capital Investments, LLC
fr. 2/18/21

Docket 58

Tentative Ruling:

Tentative Ruling for 4/22/21:

Appearances are not required.

Grant as set forth below.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

This Court continued the 2/18/21 hearing on this matter to give the junior lienholder an opportunity to obtain and file an appraisal of the subject property no later than April 8, 2021. As of the date this tentative ruling was prepared, this deadline has passed and no appraisal has been filed. Accordingly, the tentative ruling is to GRANT the motion.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 2/18/21:

Continue to 4/22/21 at 8:30 a.m. to address the following issues.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, April 22, 2021

Hearing Room 1545

8:30 AM

CONT... Tonya Elaine Crawford

Chapter 13

Appearances are not required on 2/18/21.

Reason:

Appraisal; date of valuation. The junior lienholder has requested (dkt. 63) additional time to obtain an appraisal. Debtor is directed to provide reasonable access for that purpose. The junior lienholder is directed to file and serve the appraisal at least 14 days before the continued hearing. Note: Judge Bason's tentative ruling is to require valuations *at or near the petition date*. See *In re Gutierrez*, 503 B.R. 458 (Bankr. C.D. Cal. 2013).

At the continued hearing the parties should address how they propose to resolve their disputes - e.g., (i) with an evidentiary hearing; (ii) with a court ruling based solely on the written record (to save costs, if all parties consent), (iii) through mediation, or (iv) through appointment of an appraiser (jointly selected by the parties/their appraisers) as the court's own expert under FRE 706.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (i.e., page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Tonya Elaine Crawford

Represented By
Stephen S Smyth

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, April 22, 2021

Hearing Room 1545

8:30 AM

2:20-16719 Diana Mitra Saidian

Chapter 13

#11.00 Cont'd hrg re: Objection to Claim No. 5-2 Filed by
Investment Management Company LLC
fr. 11/19/20, 12/17/20, 1/21/21, 3/18/21

Docket 53

Tentative Ruling:

Tentative Ruling for 4/22/21:
Appearances required.

This Court continued this matter to this date from the 3/18/21 hearing based on the representation of the parties that they have reached a settlement. As of the date this tentative ruling was prepared, no motion to approve the settlement has been filed. There is no tentative ruling, but the parties should be prepared to address what further steps they have taken to finalize the settlement.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Diana Mitra Saidian

Represented By

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, April 22, 2021

Hearing Room 1545

8:30 AM

CONT... Diana Mitra Saidian

Raymond H. Aver

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Represented By
Fari B Nejadpour

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, April 22, 2021

Hearing Room 1545

8:30 AM

2:20-18844 Graciela Gomez

Chapter 13

#12.00 Cont'd hrg re: Amended Motion in Individual Case
for Order Authorizing Use of Cash Collateral
fr. 12/17/20, 2/18/21, 3/18/21

Docket 32

Tentative Ruling:

Tentative Ruling for 4/22/21:

Appearances required.

This matter has been continued multiple times (since 12/17/20) for Debtor either to reach an agreement regarding the use of cash collateral or to refinance the debt owed to First Commerce, LLC ("First Commerce"). On 4/13/21, however, Debtor filed a proposed chapter 13 plan (dkt.48) that appears to have abandoned any refinancing, and proposes to pay First Commerce its arrears of \$69,519.35 (see POC 7-1, p.2, line 9) with 0% interest. Plan (dkt.48), p.6. Meanwhile, have the parties reached any agreement regarding the use of cash collateral?

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 3/18/21:

Appearances required.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, April 22, 2021

Hearing Room 1545

8:30 AM

CONT... Graciela Gomez

Chapter 13

Based on the arguments and representations of the parties on 2/18/21, this Court continued the matter for Debtor to pursue a refinance of the property. There is no tentative ruling, but the parties should be prepared to provide an update on the status of any refinance.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 2/18/21:
Appearances required.

Based on the arguments and representations of the parties on 12/17/20, this Court continued the matter to this date to allow time for them to negotiate the terms of a cash collateral stipulation. But after the hearing Debtor filed a motion to refinance the subject property and pay off First Commerce, LLC's lien in full, which this Court granted. See dkt. 36, 39. There is no tentative ruling. The parties should be prepared to address (1) whether the refinance transaction did or did not close; (2) whether, if the refinancing did close, there is a need for retroactive approval of Debtor's use of First Commerce, LLC's cash collateral prior to its payoff or whether that issue is now moot; and (3) whether there is a need for this Court to authorize prospective use of the new lender's cash collateral.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, April 22, 2021

Hearing Room 1545

8:30 AM

CONT... Graciela Gomez

Chapter 13

are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 12/17/20:
Appearances required.

There is no tentative ruling. The parties should be prepared to address the issues raised in the motion papers (dkt. 32) and the opposition papers (dkt.34).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Graciela Gomez

Represented By
Christine A Kingston

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, April 22, 2021

Hearing Room 1545

8:30 AM

2:20-20239 Portia D. Austin

Chapter 13

#13.00 Cont'd hrg re: Motion to Avoid Lien Junior Lien on
Principal Residence with Argent Mortgage Company
fr. 12/17/20, 2/18/21, 3/18/21

Docket 14

***** VACATED *** REASON: Resolved by stipulation (dkt.32) and order
thereon.**

Tentative Ruling:

Party Information

Debtor(s):

Portia D. Austin

Represented By
David Samuel Shevitz

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, April 22, 2021

Hearing Room 1545

9:30 AM

2:00-00000

Chapter

**#1.00 PLEASE BE ADVISED THAT THE CHAPTER 13 9:30 AM
CONFIRMATION CALENDAR CAN BE VIEWED ON THE
COURT'S WEBSITE (www.cacb.uscourts.gov) UNDER:
JUDGES>BASON, N.>CHAPTER 13>CONFIRMATION HEARINGS CALENDAR**

Docket 0

Tentative Ruling:

- NONE LISTED -

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, April 22, 2021

Hearing Room 1545

11:00 AM
2:00-00000

Chapter

**#1.00 PLEASE BE ADVISED THAT THE CHAPTER 13 HEARINGS
at 11:00 AM CAN BE VIEWED ON THE COURT'S WEBSITE
(www.cacb.uscourts.gov) UNDER: JUDGES>BASON, N.>CHAPTER 13**

Docket 0

Tentative Ruling:

- NONE LISTED -

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Friday, April 23, 2021

Hearing Room 1545

8:00 AM
2:00-00000

Chapter 0

#1.00 ZoomGov Instructions for all matters on today's calendar:

Meeting ID: 160 929 0211
Password: 589717
Meeting URL: <https://cacb.zoomgov.com/j/1609290211>
Telephone: +1 669 254 5252 or +1 646 828 7666 or 833 568 8864 (Toll Free)

Please connect at least 5 minutes before the start of your hearing, and wait with your microphone muted until your matter is called. You do not need to call Chambers for advance approval. ZoomGov appearances are free

Docket 0

Tentative Ruling:

- NONE LISTED -

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Friday, April 23, 2021

Hearing Room 1545

9:00 AM

8:18-10969 Luminance Recovery Center, LLC

Chapter 7

Adv#: 8:18-01064 Marshack v. Castanon et al

#1.00 Mediation Hearing

Judge Theodor Albert case to be heard by Judge Neil Bason

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Luminance Recovery Center, LLC

Represented By
Jeffrey I Golden
Beth Gaschen

Defendant(s):

Michael Edward Castanon

Represented By
Rhonda Walker
Carlos A De La Paz

BeachPointe Investments, Inc.

Represented By
Evan C Borges
Richard Klein

George Bawuah

Represented By
Evan C Borges
Richard Klein

Jerry Bolnick

Represented By
Evan C Borges
Richard Klein

Jonathan Blau

Represented By
Evan C Borges

Joseph Bolnick

Represented By

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Friday, April 23, 2021

Hearing Room 1545

9:00 AM

CONT... Luminance Recovery Center, LLC

Chapter 7

	Evan C Borges Richard Klein
Maria Castanon	Represented By Carlos A De La Paz
Kenneth Miller	Represented By Evan C Borges Richard Klein
Peter Van Petten	Represented By Evan C Borges Richard Klein
Raymond Midley	Represented By Evan C Borges Richard Klein
Veronica Marfori	Represented By Evan C Borges Richard Klein

Plaintiff(s):

Richard A. Marshack	Represented By Sharon Oh-Kubisch Robert S Marticello
---------------------	--

Trustee(s):

Richard A Marshack (TR)	Represented By D Edward Hays David Wood Kyra E Andrassy Jeffrey I Golden Beth Gaschen Matthew Grimshaw M Douglas Flahaut Annie Y Stoops Judith E Marshack Sharon Oh-Kubisch
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**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Friday, April 23, 2021

Hearing Room 1545

9:00 AM

CONT...

Luminance Recovery Center, LLC

Faye C Rasch
Robert S Marticello

Chapter 7

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 27, 2021

Hearing Room 1545

9:00 AM

2:00-00000

Chapter

#0.00 ZoomGov Instructions for all matters on today's calendar:

Meeting ID: 161 828 7187

Password: 575970

Meeting URL: <https://cacb.zoomgov.com/j/1618287187>

Telephone: +1 669 254 5252 or +1 646 828 7666 or 833 568 8864 (Toll Free)

Please connect at least 5 minutes before the start of your hearing, and wait with your microphone muted until your matter is called. You do not need to call Chambers for advance approval. ZoomGov appearances are free

Docket 0

Tentative Ruling:

- NONE LISTED -

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 27, 2021

Hearing Room 1545

10:00 AM

2:19-15031 Desiree D Taylor

Chapter 13

#1.00 Hrg re: Motion for relief from stay [RP]

RUSHMORE LOAN MANAGEMENT SERVICES, LLC
vs
DEBTOR

Docket 32

Tentative Ruling:

Appearances are not required.

Grant as set forth below.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 27, 2021

Hearing Room 1545

10:00 AM

CONT... Desiree D Taylor

Chapter 13

by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Desiree D Taylor

Represented By
Daniel King

Movant(s):

Rushmore Loan Management

Represented By
Erin M McCartney

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 27, 2021

Hearing Room 1545

10:00 AM

2:19-20769 Trisha Franklin

Chapter 13

#2.00 Hrg re: Motion for relief from stay [RP]

WELLS FARGO BANK
vs
DEBTOR

Docket 54

Tentative Ruling:

Appearances required.

There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 57).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Trisha Franklin

Represented By
Thomas B Ure

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 27, 2021

Hearing Room 1545

10:00 AM

CONT... Trisha Franklin

Chapter 13

Movant(s):

Wells Fargo Bank

Represented By
Sean C Ferry
Eric P Enciso

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 27, 2021

Hearing Room 1545

10:00 AM

2:19-21613 Tanisha S. Harrington

Chapter 13

#3.00 Hrg re: Motion for relief from stay [RP]

NEWREZ LLC
vs
DEBTOR

Docket 37

Tentative Ruling:

Appearances are not required.
Grant as set forth below.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a) (3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, April 27, 2021

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10:00 AM

CONT... Tanisha S. Harrington Chapter 13

are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Tanisha S. Harrington

Represented By
Matthew D. Resnik

Movant(s):

NewRez LLC d/b/a Shellpoint

Represented By
James F Lewin

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 27, 2021

Hearing Room 1545

10:00 AM

2:21-12175 Rosario Alcantar

Chapter 13

#4.00 Hrg re: Motion for relief from stay [RP]

ROBERT ZYMET, TRUSTEE, et al
vs
DEBTOR

Docket 14

Tentative Ruling:

Appearances are not required.

Grant as set forth below.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter

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Central District of California
Los Angeles
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10:00 AM

CONT... Rosario Alcantar

Chapter 13

by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Rosario Alcantar

Represented By
Gary S Saunders

Movant(s):

Robert Zymet, Trustee, et al

Represented By
Edward T Weber

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 27, 2021

Hearing Room 1545

10:00 AM

2:21-12342 Charles Blake

Chapter 13

#5.00 Hrg re: Motion for relief from stay [RP]

MORGAN STANLEY MORTGAGE LOAN TRUST 2006-17XS,
U.S. BANK NATIONAL ASSOCIATION
vs
DEBTOR

Docket 7

Tentative Ruling:

Appearances required.

Grant as set forth below.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

The automatic stay does not apply

This case has been dismissed, which terminates the automatic stay. See 11 U.S.C. 349(b)(3) & 362(c).

In the alternative and in addition, the tentative ruling is to grant relief from the automatic stay as follows.

Note regarding mootness: Judge Bason's standard tentative ruling is as follows. For three reasons the above tentative ruling that there *is no stay* does not moot requests for relief from whatever stay might apply. First, such *alternative* rulings are appropriate because (i) the very nature of *tentative* rulings is that this Court could be persuaded to depart from any one of them, and (ii) a *final* ruling on any one issue could be reversed on appeal. Second, even if there is currently no stay, that could change - e.g., if there is no stay because of dismissal of this bankruptcy case, such dismissal could be vacated and that might reimpose the stay even if there is a lack of adequate protection, or other grounds why the stay should not apply, and therefore the

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10:00 AM

CONT... Charles Blake

Chapter 13

movant will suffer cognizable harm unless the issues are addressed now (Judge Bason regularly vacates dismissals based on stipulations or other good cause). Third, if the motion includes any request for relief as to *past* acts (annulment) or *future* cases (*in rem* relief), those things are still at issue even if there is no *current* automatic stay. See *In re Aheong*, 276 B.R. 233 (9th Cir. BAP 2002). For all of these reasons, the tentative ruling is that it is appropriate to address the following issues.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(4).

The motion seeks to terminate the automatic stay in any pending bankruptcy cases purporting to affect the Property which was filed on or before the date the motion was filed (dkt. 7, pdf p.19, para. "(5)"). The tentative ruling is to deny such relief on the present record. If Movant wants to pursue that sort of relief Movant is directed to appear to address appropriate grounds for granting such relief. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Relief notwithstanding future bankruptcy cases.

Grant the following relief pursuant to 11 U.S.C. 362(d)(4) and the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that

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10:00 AM

CONT...

Charles Blake

Chapter 13

Debtor was involved. The tentative ruling in this particular case is that there is sufficient evidence and notice.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Charles Blake

Pro Se

Movant(s):

Morgan Stanley Mortgage Loan

Represented By
James F Lewin

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 27, 2021

Hearing Room 1545

10:00 AM

2:19-24202 Olivia Pino

Chapter 13

#6.00 Hrg re: Motion for relief from stay [RP]

WELLS FARGO BANK
vs
DEBTOR

Docket 34

Tentative Ruling:

Appearances are not required.

Grant as set forth below.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, April 27, 2021

Hearing Room 1545

10:00 AM

CONT... **Olivia Pino**

Chapter 13

are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Olivia Pino

Represented By
James D. Hornbuckle

Movant(s):

Wells Fargo Bank

Represented By
Sean C Ferry

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, April 27, 2021

Hearing Room 1545

10:00 AM

2:19-24202 Olivia Pino

Chapter 13

#7.00 Cont'd hrg re: Motion for relief from stay [PP]
fr. 12/1/20, 2/9/21, 3/9/21

ALLY FINANCIAL
vs
DEBTOR

Docket 29

Tentative Ruling:

Tentative Ruling for 4/27/21:
Appearances required.

At the hearing on 3/9/21 this Court was persuaded to continued this matter to this date. There is no tentative ruling, but the parties should be prepared to update this Court on the status of this motion.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 3/9/21:
Appearances required.

At the hearing on 2/9/21 this Court was persuaded to continued this matter to this date to allow time for the parties to finalize the terms of an adequate

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, April 27, 2021

Hearing Room 1545

10:00 AM

CONT... Olivia Pino

Chapter 13

protection stipulation. The parties should be prepared to provide an update on the status of those negotiations.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 2/9/21:
Appearances required.

Based on the arguments and representations of the parties at the hearing on 12/1/20, this Court continued the matter to this date to allow time for the parties to negotiate the terms of an adequate protection order. There is no tentative ruling, but the parties should be prepared to provide an update on the status of those negotiations.

This Court also directed Movant to give notice of the continued hearing by no later than 12/18/20, but as of the preparation of this tentative ruling no notice is on file. Why not?

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov

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Tuesday, April 27, 2021

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10:00 AM

CONT... **Olivia Pino**

Chapter 13

instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 12/1/20:
Appearances are not required.

Grant as set forth below.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 27, 2021

Hearing Room 1545

10:00 AM

CONT... Olivia Pino

Chapter 13

Debtor(s):

Olivia Pino

Represented By
James D. Hornbuckle

Movant(s):

Ally Financial

Represented By
Sean C Ferry

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 27, 2021

Hearing Room 1545

10:00 AM

2:19-17537 Michelle P Howard

Chapter 7

#8.00 Hrg re: Motion for relief from stay [PP]

TOYOTA MOTOR CREDIT CORPORATION
VS
DEBTOR

Docket 54

Tentative Ruling:

Appearances are not required.

Grant as set forth below.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, April 27, 2021

Hearing Room 1545

10:00 AM

CONT... Michelle P Howard

Chapter 7

by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Michelle P Howard

Represented By
Andy C Warshaw

Movant(s):

Toyota Motor Credit Corporation

Represented By
Austin P Nagel

Trustee(s):

John P Pringle (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 27, 2021

Hearing Room 1545

10:00 AM

2:18-22649 Mikal A Price

Chapter 13

#9.00 Hrg re: Motion for relief from stay [PP]

TOYOTA LEASE TRUST
vs
DEBTOR

Docket 25

Tentative Ruling:

Deny as moot, because Debtor has presented evidence that the subject vehicle has been returned at the end of the lease term, with no balance due. See Response (dkt.27). Appearances are not required.

Proposed order: Debtor is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Mikal A Price

Represented By

Alisa Admiral Garcia

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, April 27, 2021

Hearing Room 1545

10:00 AM

CONT... Mikal A Price

Chapter 13

Movant(s):

Toyota Lease Trust, as serviced by

Represented By

Kirsten Martinez

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, April 27, 2021

Hearing Room 1545

10:00 AM

2:19-12254 Hiram De Los Rios

Chapter 13

#10.00 Hrg re: Motion for relief from stay [PP]

TOYOTA LEASE TRUST
vs
DEBTOR

Docket 47

Tentative Ruling:

Appearances are not required.

Grant as set forth below.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

**United States Bankruptcy Court
Central District of California
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CONT... Hiram De Los Rios

Chapter 13

are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Hiram De Los Rios

Represented By
Ryan A. Stubbe

Movant(s):

Toyota Lease Trust, as serviced by

Represented By
Kirsten Martinez

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 27, 2021

Hearing Room 1545

10:00 AM

2:20-17045 Rolando Martinez Ruiz and Rocio Fierros Lopez

Chapter 13

#11.00 Hrg re: Motion for relief from stay [PP]

NISSAN-INFINITI LT
vs
DEBTOR

Docket 32

Tentative Ruling:

Appearances are not required.

Grant as set forth below.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, April 27, 2021

Hearing Room 1545

10:00 AM

CONT... Rolando Martinez Ruiz and Rocio Fierros Lopez Chapter 13

by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Rolando Martinez Ruiz

Represented By
Leonard Pena

Joint Debtor(s):

Rocio Fierros Lopez

Represented By
Leonard Pena

Movant(s):

Nissan-Infiniti LT, as serviced by

Represented By
Kirsten Martinez

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 27, 2021

Hearing Room 1545

10:00 AM

2:21-10996 Manuel Rodriguez and Sonia De Los Angeles Rodriguez

Chapter 7

#12.00 Hrg re: Motion for relief from stay [PP]

BMW BANK OF NORTH AMERICA
vs
DEBTOR

Docket 22

Tentative Ruling:

Appearances are not required.

Grant as set forth below.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, April 27, 2021

Hearing Room 1545

10:00 AM

CONT... Manuel Rodriguez and Sonia De Los Angeles Rodriguez Chapter 7

are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Manuel Rodriguez

Represented By
R Grace Rodriguez

Joint Debtor(s):

Sonia De Los Angeles Rodriguez

Represented By
R Grace Rodriguez

Movant(s):

BMW Bank of North America

Represented By
Marjorie M Johnson

Trustee(s):

Peter J Mastan (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 27, 2021

Hearing Room 1545

10:00 AM

2:19-20999 Francis I Morelos and Jennifer Morelos

Chapter 13

#13.00 Cont'd hrg re: Motion for relief from stay [PP]
fr. 3/23/21

WELLS FARGO BANK, N.A.
VS
DEBTOR

Docket 56

***** VACATED *** REASON: APO**

Tentative Ruling:

Party Information

Debtor(s):

Francis I Morelos

Represented By
Bruce A Wilson

Joint Debtor(s):

Jennifer Morelos

Represented By
Bruce A Wilson

Movant(s):

Wells Fargo Bank, N.A. d/b/a Wells

Represented By
Josephine E Salmon

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 27, 2021

Hearing Room 1545

11:00 AM

2:20-17675 Marlon Calderon Yap and Khristobelle Yap

Chapter 7

#1.00 Hrg re: Motion to Reconsider Motion For Reconsideration Of Order Granting Chapter 7 Trustees Motion Compelling Turnover Of Estate Property And Documents Pursuant To F.R.C.P. 60(B)(1)

Docket 36

*** VACATED *** REASON: Notice of Withdrawal filed on 04/01/21 (dkt. 41)

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Marlon Calderon Yap

Represented By
Michael Jay Berger

Joint Debtor(s):

Khristobelle Yap

Represented By
Michael Jay Berger

Trustee(s):

John P Pringle (TR)

Represented By
Toan B Chung

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 27, 2021

Hearing Room 1545

11:00 AM

2:18-20704 Finnian Osakpamwan Ebuehi

Chapter 7

Adv#: 2:20-01633 Mastan, Chapter 7 Trustee v. Ebuehi et al

#2.00 Cont'd Status Conference re: Complaint Objecting to Discharge
fr. 12/1/20

Docket 1

Tentative Ruling:

Tentative Ruling for 4/27/21:

Appearances required.

(A) Current issues

This Court has reviewed the parties' joint status report (adv.dkt. 28) and the other filed documents and records in this adversary proceeding.

(1) The deadline to complete discovery has passed

Defendants/Debtors state that they anticipate propounding interrogatories on Plaintiff/UST and completing discovery by 5/30/21. Adv.Dkt. 28, p.2. But this Court's prior scheduling order (adv. dkt. 23, p.1, para. "(3)(f)") set 3/2/21 as the "last day for discovery to be completed, including receiving responses to discovery requests," and Defendants/Debtors have not filed any motion for reconsideration of that deadline. The tentative ruling is that the Status Report cannot be treated as such a motion.

This Court notes that Plaintiff/UST asserts that Defendants/Debtors have "[not] responded (timely or otherwise) to written discovery served by Plaintiff, including interrogatories, requests for production of documents and requests for admissions." Adv. dkt. 28, p.4. The tentative ruling is that this Court will not take any action on that non-responsiveness *sua sponte* (without prejudice to any evidentiary or other consequences that might be requested by Plaintiff/UST at trial or any other time).

(B) Standard requirements

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, April 27, 2021

Hearing Room 1545

11:00 AM

CONT... Finnian Osakpamwan Ebuehi
conference.)

Chapter 7

(1) Venue/jurisdiction/authority

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (adversary docket number 19).

(2) Mediation

Plaintiff/UST does not wish to have this matter sent to mediation. Stat.Rpt. (adv.dkt.28), p.3. Defendants/Debtors request mediation and state that they seek a chapter 7 discharge and to "obtain the homestead exemption funds." Stat.Rpt. (adv.dkt.28), pp.3-4. The tentative ruling is that (a) mediation would not appear to be productive, given the lack of participation in discovery by Defendants/Debtors and the opposition of Plaintiff/UST; and (b) whether and when Defendants/Debtors are or are not entitled to any homestead exemption funds is not within the scope of this adversary proceeding.

(3) Deadlines

This adversary proceeding has been pending since 9/29/20. On 12/2/20, this Court entered a scheduling order (adv.dkt.23) memorializing certain dates and deadlines which have now passed and have been omitted below. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed amended scheduling order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following new dates and deadlines.

Lodge Joint Proposed Pre-Trial Order: 7/20/21

Pretrial conference: 8/3/21 at 11:00 a.m.

Deliver trial exhibits to other parties and chambers, including direct testimony by declaration unless excused: 8/5/21

Trial commencement: 8/9/21 at 9:00 a.m.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, April 27, 2021

Hearing Room 1545

11:00 AM

CONT... **Finnian Osakpamwan Ebuehi**

Chapter 7

appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 12/1/20:
Appearances required.

This Court has reviewed the parties' joint status report (adv.dkt. 19) and the other filed documents and records in this adversary proceeding.

(A) Standard requirements

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority

The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this Bankruptcy Court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. *See generally Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). *See generally In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 27, 2021

Hearing Room 1545

11:00 AM

CONT...

Finnian Osakpamwan Ebuehi

Chapter 7

(2) Mediation

[Intentionally omitted: it appears that mediation may be unproductive at this time.]

(3) Deadlines

This adversary proceeding has been pending since 9/29/20. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Joinder of parties/amendment of pleadings: 2/16/21 deadline.

Discovery cutoff (for completion of discovery): 3/2/21.

Expert(s) - deadline for reports: N/A

Expert(s) - discovery cutoff (if different from above): N/A

Dispositive motions to be heard no later than: 4/27/20

Joint Status Report: 4/13/21.

Continued status conference: 4/27/21 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers, including direct testimony by declaration unless excused: TBD

Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, April 27, 2021

Hearing Room 1545

11:00 AM

CONT... Finnian Osakpamwan Ebuehi

Chapter 7

Debtor(s):

Finnian Osakpamwan Ebuehi

Represented By
Edwin I Aimufua
Joseph Virgilio

Defendant(s):

Finnian Osakpamwan Ebuehi

Pro Se

Elizabeth Olohirere Ebuehi

Pro Se

Joint Debtor(s):

Elizabeth Olohirere Ebuehi

Represented By
Edwin I Aimufua
Joseph Virgilio

Plaintiff(s):

Peter J. Mastan, Chapter 7 Trustee

Represented By
Ashleigh A Danker

Trustee(s):

Peter J Mastan (TR)

Represented By
Ashleigh A Danker

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 27, 2021

Hearing Room 1545

11:00 AM

2:19-14137 Zeta Graff

Chapter 7

Adv#: 2:20-01677 Leslie v. Graff

#3.00 Cont'd Status Conference re: Complaint to Deny / Revoke Debtor's Discharge Pursuant to 11 U.S.C. 727(a)(6) and (d)(3) fr. 2/9/21

Docket 1

Tentative Ruling:

Tentative Ruling for 4/27/21:

Continue as set forth below. Appearances are not required on 4/27/21.

(A) Current issues

This Court has reviewed the parties' joint status report (adv.dkt. 14) and the other filed documents and records in this adversary proceeding.

(1) United States Trustee's Motion to Intervene (adv. dkt. 12).

The parties' joint status report requests that this status conference be continued, to be held contemporaneously with the hearing on the United States Trustee's Motion to Intervene. Adv. dkt. 14, p. 4. The tentative ruling is to grant the request to continue the status conference to the date and time set forth below.

(B) Standard requirements

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited at the hearing(s) on 2/9/21.

(2) Mediation

[Intentionally omitted]

(3) Deadlines

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 27, 2021

Hearing Room 1545

11:00 AM

CONT...

Zeta Graff

Chapter 7

This adversary proceeding has been pending since 12/7/20. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Joinder of parties/amendment of pleadings-deadline: 5/24/21

Discovery cutoff (for completion of discovery): 7/1/21.

Expert(s) - deadline for reports: N/A

Expert(s) - discovery cutoff (if different from above): N/A

Dispositive motions to be heard no later than: 8/3/21

Joint Status Report: **No written status report required.**

Continued status conference: **5/4/21 at 11:00 a.m.**

Lodge Joint Proposed Pre-Trial Order: 8/24/21

Pretrial conference: 9/7/21 at 2:00 p.m.

Deliver trial exhibits to other parties and chambers, including direct testimony by declaration unless excused: 9/13/21 (for the format of exhibits and other trial procedures, please see the Procedures of Judge Bason (posted at www.cacb.uscourts.gov) then search for "Trial Practice" BUT, at least during the COVID-19 shut down of the courtroom, also see the forms of order regarding video trials, posted on Judge Bason's portion of the Court's above-referenced web page)

Trial commencement: 9/16/21 at 9:00 a.m.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 2/9/21:
Appearances required.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 27, 2021

Hearing Room 1545

11:00 AM

CONT... Zeta Graff

Chapter 7

(A) Current issues

This Court has reviewed the parties' joint status report (adv.dkt. 8) and the other filed documents and records in this adversary proceeding.

(1) Sale or Refinance of Defendant/Debtor's Home

In the parties' joint status report, Defendant/Debtor contends that this proceeding should be postponed because it is likely to become moot when either the Plaintiff/Trustee sells her home or she refinances her home. Adv. dkt. 8, p. 4. There is no tentative ruling, but the parties should be prepared to discuss when they expect the sale or refinancing will be finalized.

(B) Standard requirements

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority

The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this Bankruptcy Court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. *See generally Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). *See generally In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation

[Intentionally omitted.]

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, April 27, 2021

Hearing Room 1545

11:00 AM

CONT... Zeta Graff

Chapter 7

(3) Deadlines

This adversary proceeding has been pending since 12/7/20. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Joinder of parties/amendment of pleadings-deadline: 5/24/21

Discovery cutoff (for completion of discovery): 7/1/21.

Expert(s) - deadline for reports: N/A

Expert(s) - discovery cutoff (if different from above): N/A

Dispositive motions to be heard no later than: 8/3/21

Joint Status Report: **4/13/21**.

Continued status conference: **4/27/21 at 11:00 a.m.**

Lodge Joint Proposed Pre-Trial Order: 8/24/21

Pretrial conference: 9/7/21 at 2:00 p.m.

Deliver trial exhibits to other parties and chambers, including direct testimony by declaration unless excused: 9/13/21 (for the format of exhibits and other trial procedures, please see the Procedures of Judge Bason (posted at www.cacb.uscourts.gov) then search for "Trial Practice" BUT, at least during the COVID-19 shut down of the courtroom, also see the forms of order regarding video trials, posted on Judge Bason's portion of the Court's above-referenced web page)

Trial commencement: 9/16/21 at 9:00 a.m.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 27, 2021

Hearing Room 1545

11:00 AM

CONT... Zeta Graff

Chapter 7

Debtor(s):

Zeta Graff

Represented By
Damion Robinson

Defendant(s):

Zeta Graff

Pro Se

Plaintiff(s):

Sam S. Leslie

Represented By
Elissa Miller

Trustee(s):

Sam S Leslie (TR)

Represented By
Elissa Miller

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 27, 2021

Hearing Room 1545

11:00 AM

2:20-17525 Nicole R. Prause

Chapter 7

#4.00 Cont'd hrg re: Motion for relief from stay [NA]
fr. 01/05/21, 02/09/21, 3/2/21

DONALD L. HILTON, JR.
VS
DEBTOR

Docket 32

***** VACATED *** REASON: Withdrawal of motion filed 3/22/21 [dkt 76]**

Tentative Ruling:

Party Information

Debtor(s):

Nicole R. Prause

Represented By
Michael Jay Berger

Movant(s):

Donald L. Hilton, Jr.

Represented By
Jeffrey J Hagen

Trustee(s):

Elissa Miller (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 27, 2021

Hearing Room 1545

11:00 AM

2:20-17525 Nicole R. Prause

Chapter 7

Adv#: 2:20-01658 Hilton, Jr. v. Prause

#5.00 Cont'd status conference re: Complaint to determine dischargeability of debt pursuant to 11 U.S.C. section 523(a)(6) fr. 1/26/21

Docket 1

***** VACATED *** REASON: Order dismissing adversary proceeding approved on 4/14/21 [dkt. 8]**

Tentative Ruling:

Party Information

Debtor(s):

Nicole R. Prause

Represented By
Michael Jay Berger

Defendant(s):

Nicole R. Prause

Pro Se

Plaintiff(s):

Donald L. Hilton Jr.

Represented By
Jeffrey J Hagen

Trustee(s):

Elissa Miller (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 27, 2021

Hearing Room 1545

1:00 PM

2:21-10956 LAX In-Flite Services, LLC

Chapter 11

#1.00 Hrg re: Motion for relief from stay [PP]

PENSKE TRUCK LEASING CO., LP
vs
DEBTOR

Docket 48

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 2, 4/27/21 at 1:00 p.m.).

Party Information

Debtor(s):

LAX In-Flite Services, LLC

Represented By
Jeremy H Rothstein

Movant(s):

Penske Truck Leasing Co., L.P.

Represented By
Maria Cho

Trustee(s):

John-Patrick McGinnis Fritz (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 27, 2021

Hearing Room 1545

1:00 PM

2:21-10956 LAX In-Flite Services, LLC

Chapter 11

#2.00 Cont'd Status Conference re: Chapter 11 Case
fr. 02/25/21, 03/02/21, 4/6/21

Docket 1

Tentative Ruling:

Tentative Ruling for 4/27/21:

Appearances required.

(1) Current issues

(a) Penske Truck Leasing Co.'s motion for relief from stay (dkt. 48), stipulation and order continuing briefing deadlines (dkt. 52, 54), Debtor's opposition (dkt. 58), Penske's reply (emailed to Debtor and chambers while CM/ECF was down)

The tentative ruling is that if the automatic stay applies at all, it only barely does so, and in any event Penske must be given very speedy relief. Moreover, for its interests to be adequately protected, Penske must be paid in cash, even for a very minor delay in turning over the subject trucks, in addition to whatever administrative claim or other remedies it has.

(i) A debtor in bankruptcy has no right to illegal possession of property; but that is a different question from whether the automatic stay applies

A debtor in possession "shall manage and operate the property in [its] possession ... according to the requirements of valid laws of the State in which such property is situated, in the same manner that the owner or possessor thereof would be bound to do if in possession thereof." 28 U.S.C. 959(b). Debtor has no nonbankruptcy right to keep Penske's trucks.

On the other hand, there is a distinction between a violation of nonbankruptcy law and what remedies might apply within the bankruptcy case. Most creditors are at least temporarily frustrated by the automatic stay, but the larger goal of the Bankruptcy Code is to preserve the debtor's going concern value, for the benefit of all creditors, and to give the debtor a breathing spell, even from the exercise of legitimate nonbankruptcy remedies.

Within the bankruptcy case, there are numerous remedies whenever a

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, April 27, 2021

Hearing Room 1545

1:00 PM

CONT... LAX In-Flite Services, LLC

Chapter 11

debtor violates nonbankruptcy law. Those remedies can include everything from, for example, (A) admonishment to adhere to nonbankruptcy law to (B) possible removal as debtor in possession (11 U.S.C. 1104) or dismissal or conversion of the case (11 U.S.C. 1112) to (C) relief from the automatic stay to permit the nondebtor party to exercise its rights under nonbankruptcy law.

This Bankruptcy Court must be cautious in deciding which of these remedies to apply. Not every violation of nonbankruptcy law requires an immediate, drastic response. As has been held in a different context, there is "no need to convert the bankruptcy judge into an ombudsman without portfolio ... a result that would be inimical to the basic function of bankruptcy judges in bankruptcy proceedings." *In re Garvin*, 922 F.3d 1031, 1036 (9th Cir. 2019) (citation and internal quotation marks omitted).

In keeping with this cautious approach, this tentative ruling examines whether the automatic stay applies at all and, if it does, what bankruptcy remedies should apply. The tentative ruling is that, although if this Bankruptcy Court were writing on a clean slate, it would hold that the automatic stay applies, binding precedent of the Court of Appeals for the Ninth Circuit (the "Ninth Circuit") mandates that there is no automatic stay. But Penske might not want to exercise any self-help remedies immediately, because an appellate court might disagree; and in any event, the tentative ruling is that if the automatic stay does apply then relief from it must be granted very soon.

(ii) Plain meaning

If this Bankruptcy Court were writing on a clean slate, it would hold that the automatic stay applies under the plain meaning of the statute. Although Debtor lacks any cognizable property interest in Penske's trucks, due to prepetition expiration of the subject leases, nevertheless the stay is broader than just property of the estate. The automatic stay applies to "any act to obtain possession [A] of property of the estate or [B] *of property from the estate*" 11 U.S.C. 362(a)(3) (emphasis added).

The plain meaning appears to be that, beyond property in which the estate has a legally cognizable interest - property "of" the estate - the statute also protects the estate against any acts to seize property "from" the estate - *i.e.*, any property in which the estate has a bare possessory interest. Penske has not suggested any other reason why Congress would distinguish property "of" the estate and property "from" the estate.

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(iii) Statutory context - the rest of section 362

In addition to the plain meaning of section 362(a)(3), the statutory context appears to support the foregoing reading. Section 362 provides that in some circumstances the automatic stay will not apply when there is a prepetition judgment for eviction, but this implies that the automatic stay does apply absent those circumstances.

Specifically, Congress provided in the analogous provisions of 11 U.S.C. 362(b)(22) that the automatic stay does not apply to the continuation of any eviction proceeding against a debtor under a residential lease of real property as to which the lessor has obtained a prepetition judgment for possession, but this exception to the automatic stay is "subject to" its own exceptions, in 11 U.S.C. 362(l). Those exceptions arise if the debtor deposit 30 days of postpetition rent with the clerk of court and files a "certification under penalty of perjury" that, under the debtor's understanding of the facts and applicable nonbankruptcy law, the debtor can still cure "the entire monetary default" and stay in possession of the leasehold. 11 U.S.C. 362(l)(1). If the lessor objects to the debtor's certification and the Bankruptcy Court upholds that objection then, from that moment forward, the automatic stay no longer applies - "subsection (b)(22) shall apply immediately" (*i.e.*, not retroactively to the petition date) - and relief from the stay provided under subsection (a)(3) [11 U.S.C. 362(a)(3)] shall not be required" 11 U.S.C. 362(l)(3)(B)(i) (emphasis added). The emphasized language implies that there is a stay under section 362(a)(3), unless section 362(b)(22) and (l) apply.

(iv) Broader statutory context

The broader purposes of the Bankruptcy Code also appear to support the above reading. In particular, the Code focuses on protecting the interests of other creditors, so long as the interests of creditors like Penske can be protected.

Consider what a contrary interpretation of the statute could mean. A creditor with legal title to assets (such as Penske) could ignore the bankruptcy petition, exercise self-help remedies, and seize everything to which the creditor held legal title - all trucks and, if the creditor's legal title extended further, potentially all equipment, all raw materials, all inventory, etc. - regardless of the harm caused to other creditors, and without any supervision

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by the Bankruptcy Court to assure an orderly transition.

Meanwhile, the statute provides multiple protections for Penske or any other entity with an interest in any property held by the estate. Such creditors are entitled to "adequate protection," which "shall" be granted "on request of" such party "at any time ... with or without a hearing," even on an *ex parte* basis if necessary. 11 U.S.C. 363(e); and see Rule 4001(a)(2) (Fed. R. Bankr. P.) (*ex parte* relief).

If there is a lack of adequate protection, or other cause or grounds for relief, then the Bankruptcy Court "shall" grant relief from the automatic stay. 11 U.S.C. 362(d). These protections for creditors like Penske appear to go hand in hand with protection of the interests of all other creditors and debtors, whose going concern value may be destroyed if the automatic stay were not to apply to creditors like Penske.

(v) The Ninth Circuit's binding authority

This Bankruptcy Court is, of course, bound by decisions of the Ninth Circuit. It turns out that, in the decision most on point, the Ninth Circuit reversed this Bankruptcy Court; but even if a different court were involved, the Ninth Circuit's decision is binding. See *In re Perl*, 811 F.3d 1120 (9th Cir. 2016).

In *Perl*, the purchaser at a foreclosure sale ("Eden Place") obtained a prepetition judgment for possession and a writ of possession. At a hearing in State Court the day before the bankruptcy petition the debtor, Mr. Perl, was granted conditions to stay of eviction, but he failed to satisfy those conditions. *Id.*, p. 1123.

Mr. Perl "never filed anything further in his bankruptcy case"; and the case was dismissed for his failure to appear at the meeting of creditors under 11 U.S.C. 341(a). *Id.*, p.1124. (This Bankruptcy Court understands, from the record before it, that by then Mr. Perl had retrieved his audio equipment and other personal property from the premises, so apparently he took no further interest in any bankruptcy-related proceedings.)

Despite the dismissal of the bankruptcy case, and Mr. Perl's lack of ongoing involvement, the appellate proceedings continued. They did so because this Bankruptcy Court had held that Eden Place had violated the automatic stay by continuing eviction proceeding postpetition, and therefore Eden Place remained potentially "subject to a claim for damages" based on that holding. *Id.*, p. 1125.

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The Ninth Circuit held, "the question in this case is whether Perl had any remaining legal or equitable possessory interest in ... the real property at issue." *Id.*, p. 1128 (emphasis added). The Ninth Circuit concluded that the flaw in this Bankruptcy Court's analysis with respect to the real property was that any "conclusion that the occupying resident retains an equitable possessory interest is inconsistent with [Cal. Code of Civil Procedure] § 1161a, which contemplates a final and binding adjudication of legal title and rights of immediate possession." *Id.*, p. 1130 (citation omitted). This Bankruptcy Court stands corrected on that issue.

The Ninth Circuit also held that "the Sheriff's lockout did not violate the automatic stay because no legal or equitable interests in the property remained to become part of the bankruptcy estate." *Id.* (citation omitted). Again, this Bankruptcy Court stands corrected. As this Bankruptcy Court understands the Ninth Circuit's decision, although Mr. Perl had an ownership interest in personal property at the premises, he did not have any possessory interest in the real property itself, so he could be locked out (subject to any rights he might have to require turnover of the personal property under, *e.g.*, 11 U.S.C. 542).

True, *Perl* does not expressly address what difference Congress might have intended between staying any act to obtain possession of property "of" the estate or "from" the estate. But *Perl* quoted both clauses of section 362(a)(3), and its holding is that the automatic stay did not apply.

It is also true that arguably there is a distinction between Eden Place changing the locks, thereby locking out Mr. Perl, and Penske exercising its nonbankruptcy rights to actively seize its trucks. But the tentative ruling is that this Bankruptcy Court cannot distinguish *Perl* on that basis, because locking out a debtor immediately after the petition date (without obtaining relief from the automatic stay) appears to be just as much a seizure of the (real) property as any lawful repossession by Penske of its trucks.

For all of the foregoing reasons, although this Bankruptcy Court would reach a different conclusion if writing on a clean slate, the tentative ruling is that under *Perl* no automatic stay applies. Alternatively, the tentative ruling is that cause exists to grant relief from any automatic stay that does apply.

(vi) Cause exists to grant relief from the automatic stay under 11 U.S.C. 362(d)(1).

The tentative ruling is that Penske's ownership interest in the trucks

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and pre-petition lease termination provide sufficient "cause" that this Court "shall" grant relief from the automatic stay, "such as" by modifying or terminating the stay. 11 U.S.C. 362(d)(1). Debtor argues that Penske is adequately protected by approximately \$17,500 in security deposits and an additional \$9,160.26 check that it tendered on 3/31/20 (representing one month's lease payment). Dkt. 58, p.1:3-17. But the tentative ruling is that, even if the automatic stay applies, this Bankruptcy Court can only decline to lift the stay for a very short period of time, to attempt to prevent irreparable harm to the estate, to the detriment of other creditors.

The tentative ruling is that, if the automatic stay applies, it must be terminated, and only the 14 day stay that presumptively applies under Rule 4001(a)(3) is appropriate to make that ruling effective. Again, this alternative analysis assumes that the automatic stay does apply; but Debtor has had since the petition date to determine how to deal with the fact that it has no right to continued possession of Penske's trucks; and if that were not enough Debtor has had since the filing of Penske's motion for relief from the automatic stay (on 3/31/21) to address this issue.

Of course, it will be very unfortunate if Debtor cannot afford replacement leases, or cannot find truck lessors willing to lease it trucks. But this Bankruptcy Court is not aware of any authority to force a lessor into extending or entering into a contractual arrangement with a debtor. The most that this Bankruptcy Court can do, consistent with the Congressional mandate that this Court "shall" grant relief from the automatic stay, is to grant Debtor a limited window of time in which to comply with nonbankruptcy law.

Debtor has not disputed that applicable nonbankruptcy law directs it to return the trucks. Debtor argues that any affirmative order directing it to turn over the trucks would require a separate motion (or adversary proceeding) (see LBR 4001-1(c)(4)); but that is not the point. Debtor also points out that, although Penske includes in its motion a request for an administrative expense reimbursement, there was no separate notice or motion seeking such relief, but again that is not the point.

The point is that Debtor is already under an affirmative obligation to comply with applicable nonbankruptcy law, once any automatic stay is determined not to apply. See 28 U.S.C. 959(b). Therefore, this Bankruptcy Court presumes that Debtor will comply with such nonbankruptcy law once the automatic stay is determined not to apply or is lifted, without the necessity for Penske to file a separate motion or adversary proceeding to force such

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compliance. In any event, Penske will be free, at that point, to exercise its nonbankruptcy rights to recover possession, and it can assert a right to any administrative expense it seeks.

In addition, Debtor must maintain adequate insurance coverage and otherwise adequately protect Penske's interests in the trucks during the short time prior to the vehicles being returned by Debtor or recovered by Penske. The tentative ruling is that a daily rate equivalent to the prepetition lease rate is appropriate for each truck.

(vii) 11 U.S.C. 362(d)(2)

The tentative ruling is that, although Penske has established that Debtor lacks any equity in the trucks, Debtor has established a colorable basis to find that the trucks are necessary for an effective reorganization under 11 U.S.C. 362(d)(2). Therefore, the tentative ruling is that, if the automatic stay were to apply, section 362(d)(2) would not provide an alternative basis for granting relief from the stay. But that does not change the outcome, or give Debtor any additional rights to retain property in which it has no legal interest.

(viii) Conclusion regarding Penske's motion for relief from the automatic stay

The tentative ruling is to grant Penske's motion by ruling that the automatic stay does not apply, under Perl, and alternatively, even if the stay does apply, there is "cause" to terminate it very quickly under 11 U.S.C. 362(d)(1). But the tentative ruling is that because of (A) the risk that an appellate court might adopt a different view of the applicability of the automatic stay, (B) the 14 day period to appeal, and (C) the presumptive 14 day stay under Rule 4001(a)(3), it is appropriate to stay the order granting Penske's motion for 14 days. In addition, the tentative ruling is that Debtor must maintain insurance, and pay Penske in cash for the daily equivalent of the lease rate for each truck until such truck is returned by Debtor in accordance with nonbankruptcy law, or recovered by Penske.

Proposed order: Penske is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)

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(b) Plan filing deadline

The Bankruptcy Code imposes a deadline of 5/6/21 to file a plan. 11 U.S.C. 1189(b). An extension is permissible, "if the need for the extension is attributable to circumstances for which the debtor should not justly be held accountable" (*id.*), but Debtor has not asserted any such circumstances.

Nevertheless, in its capacity as debtor in possession, with the duties of a trustee for the benefit of creditors, Debtor is cautioned to exercise business judgment and billing discretion in not expending excessive resources in preparing a proposed plan. Any such plan might well be mooted, or might need to be changed radically, in view of Debtor's pending motion to sell substantially all of its assets and any disposition of that motion. This Bankruptcy Court is flexible in terms of what plan is proposed, and the national form of small business plan should be capable of being filled out quickly without necessarily addressing every contingency - that is what amendments to plans are for.

(2) Dates/procedures. This case was filed on 2/5/21.

- (a) Bar date: 4/16/21 per General Order 20-01 (70 days after petition date in Subchapter V cases) (DO NOT SERVE any notice: one has already been sent, see dkt.16).
 - (b) Procedures order: dkt.3 (timely served, dkt.9)
 - (c) Plan/Disclosure Statement: file by 5/6/21 (DO NOT SERVE - except on the U.S. Trustee). See the **revised** "Procedures of Judge Bason" (available at www.cacb.uscourts.gov) (search for "Chapter 11: Plan").
 - (d) Continued status conference: 5/11/21 at 1:00 p.m., concurrent with other matters. No written status report required.
- *Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter

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by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 4/6/21:

Appearances required by counsel for Debtor.

(1) Current issues

(a) Budget motion (dkt. 37), no opposition is on file
The tentative ruling is to grant the motion.

Proposed order: Debtor is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(b) Affiliate reporting

Based on this Court's review of the supplemental declaration of Mark Berlin (dkt. 38), the tentative ruling is to excuse Debtor from this Court's requirement that it disclose all income, expenses, assets, and liabilities of its affiliates at this time, with the caveat that this Court might require such disclosures in future if appropriate.

(c) Insurance

Debtor's Monthly Operating Report ("MOR") for February 2021 (dkt. 40, p.1, In 9) states that Debtor has not timely paid all of its insurance premiums. Why not? Debtor is directed to appear to address what premiums have not been paid and what remedies this Court should impose to ensure property of the estate is being adequately protected.

(2) Dates/procedures. This case was filed on 2/5/21.

(a) Bar date: 4/16/21 per General Order 20-01 (70 days after petition date in Subchapter V cases) (DO NOT SERVE any notice: one has already been sent, see dkt.16).

(b) Procedures order: dkt.3 (timely served, dkt.9)

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(c) Plan/Disclosure Statement: file by 5/6/21 (DO NOT SERVE - except on the U.S. Trustee). See the **revised** "Procedures of Judge Bason" (available at www.cacb.uscourts.gov) (search for "Chapter 11: Plan").

(d) Continued status conference: 6/1/21 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 3/2/21:

Appearances required by counsel for Debtor and Debtor's principal.

(1) Current issues

(a) Budget motion

Debtor's status report states that a budget motion is not required by the presiding judge's procedures. Stat.Rpt. (dkt. 17), p.3. That is wrong (see posted "Procedures of Judge Bason," available at cacb.uscourts.gov).

Judge Bason recognizes that most transactions in the "ordinary course" do not require court approval. 11 U.S.C. 362(b)&(c). But debtors in bankruptcy have been known to misunderstand or mischaracterize what is "ordinary course." See generally *In re Dant & Russell, Inc.*, 853 F.2d 700, 703-06 & nn.4-7 (9th Cir. 1988) (horizontal and vertical tests for what is "ordinary course").

Judge Bason also recognizes that Debtor claims to be operating at a

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loss because of "the cost of doing business in California" and the COVID-19 pandemic. Stat.Rpt. (dkt.17), Addendum, p.1:21-24 (at PDF p.13). But, as Debtor discloses in its attorneys' employment application, it shares services with affiliates "including" (but perhaps not limited to) "shared marketing, customer service, accounting, and staffing." Dkt.13, p.3:2-3. In such situations there is a danger that, for example, Debtor could be unintentionally or intentionally over-paying for such services (measured by the horizontal or vertical test), possibly as a way of (i) transferring funds to affiliates without having to make equity distributions and (ii) reducing its reported income.

Such concerns about potential under-disclosure of Debtor's income (and value) are heightened because Debtor contemplates that insiders will purchase substantially all of Debtor's assets as a going concern, apparently without overbids. Debtor claims that its business only has value to insiders, and that "the costs of conducting an auction sale to third parties" would be too great. Stat.Rpt. (dkt.17), Addendum, p.2:2-9 (at PDF p.14).

To be clear, this Court makes no presumption that Debtor is actually engaging in any overpayments to affiliates, nor whether any transfers to affiliates would be improper in any way (e.g., some tax planning is entirely legal and appropriate). The point is only that, without disclosure, there is no way to know.

The tentative ruling is to set a **deadline of 3/9/21** for Debtor to file and serve its budget motion, together with whatever briefing and declaration(s) are necessary or appropriate to address the foregoing issues.

(b) Affiliate reporting

Debtor requests to be excused from this Court's requirement that it disclose all income, expenses, assets, and liabilities of its affiliates because it is part of a larger structure and requiring such disclosure would be expensive and burdensome. Dkt. 17, PDF p.14:19-22. But Debtor fails to provide any meaningful discussion of what "larger structure" Debtor refers to, who its affiliates are, or how creditors can have an understanding of Debtor's shared services with affiliates (such as accounting, marketing, etc.), without disclosure of affiliates' finances. Debtor is directed at the Status Conference to provide further detail about its corporate structure and why this Court's reporting requirements would be overly burdensome, relative to the benefits to creditors of the additional disclosures.

The tentative ruling is that on an interim basis only partial disclosure

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will be required, but such partial disclosure must provide parties in interest, including the Subchapter V Trustee, with adequate information to assess the costs and benefits of Debtor's transfers to and from affiliates. The tentative ruling is that if such partial disclosure is inadequate, then full disclosure will be required.

For example, it would be insufficient to disclose that Debtor contributes no net income to its family of affiliates while receiving benefits such as accounting services (preparation of tax returns). That hypothetical disclosure would paint a picture of Debtor receiving far more than it gives; but the hypothetical fails to disclose all transfers to affiliates, including payments for supplies, shared services, etc. Nor would such a hypothetical disclosure provide any sense of whether the accounting services provided to Debtor are greater or less than such services provided to affiliates (either in absolute terms, or relative to the size of affiliates' budgets). In sum, such a hypothetical disclosure would not provide adequate information for any cost/benefit assessment.

The tentative ruling is to set a **deadline of 3/23/21** for whatever briefing and declaration(s) are necessary or appropriate to address the foregoing issues.

(c) Apparent non-disclosure of affiliate transactions

As noted above, Debtor's shared services with affiliates were disclosed in the employment application of its bankruptcy counsel. This Court is concerned that associated disclosures were not made in other documents that appear to require such disclosures.

(i) No *prepetition* transfers reported in Statement Of Financial Affairs ("SOFA")

Questions 3, 4, and 30 of Debtor's SOFA (dkt.1, p.11, at PDF p.49) require disclosure of all transfers of anything of value to creditors (whether or not they are affiliates) within 90 days prepetition and all transfers to insiders (which includes affiliates) within one year prepetition. Debtor does not disclose any such transfers, despite Debtor's extensive shared services with its affiliates, and despite well over \$2 million owed to apparent affiliates with "Elite" in their name. See Bankruptcy Schedule E/F, dkt.1, p.6, at PDF p.26.

Is it really true that Debtor's affiliates provided millions of dollars of services over several years, but did not require any payments at all from Debtor during the year prepetition? If Debtor really was losing money at such

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a drastic rate, why did the affiliates continue to fund Debtor and why are they interested in purchasing Debtor's assets as a going concern?

(ii) No postpetition transfers reported in Status Reports

Similarly, despite the extensive shared services, Debtor's chapter 11 status report (dkt.17) asserts that Debtor has not made any postpetition transfers to insiders - which includes affiliates (11 U.S.C. 101(31)(E)). See Status Report (dkt.17), p.3, item B.3. Is that really true?

(iii) Postpetition loans, or equity contributions?

If Debtor's affiliates really have been subsidizing it postpetition, have they been extending credit to Debtor without notice and a hearing? See 11 U.S.C. 364. Alternatively, perhaps Debtor's affiliates have been making equity contributions rather than loans; but again that only heightens the concern that the affiliates' willingness to fund Debtor and purchase its assets as a going concern seems inconsistent with Debtor's assertion that it consistently operates at a loss.

In any event, neither any loans nor any equity contributions from affiliates are disclosed in the employment application of Debtor's proposed bankruptcy counsel. Why not?

(iv) Caveat

Again, this Court makes no presumptions regarding what actually has or has not occurred, or whether there is anything wrong with what Debtor and its affiliates and proposed bankruptcy counsel have done. On their face, Debtor's disclosures appear to show that its affiliates have been extraordinarily generous and forgiving when it comes to extending credit or equity contributions to Debtor, and perhaps a sale to affiliates is the only way to preserve jobs and maximize any recovery for creditors. But without further disclosures it is impossible to know if Debtor's representations are accurate.

(d) Funding of Debtor's proposed bankruptcy counsel by affiliates

The employment application of Debtor's counsel (dkt. 13, 14, 15) discloses such counsel received \$50,000 in funds from Debtor's 63% member and general unsecured creditor, Elite GG&K Associates, LLC ("Elite GGK"). Empl.App. (dkt. 13), pp.6:26-7:13. Although Debtor and its proposed counsel assert that the \$50,000 was a gift, there is no declaration from Elite GGK saying so, and verifying the other representations by Debtor's proposed counsel. In addition, Elite GGK has a prepetition claim of \$857,000.00. See Bankruptcy Schedule E/F (dkt.1), p.6 (at PDF p.26).

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As stated in the "Posted Procedures of Judge Bason" (available at www.cacb.uscourts.gov):

Retainer paid by third party. Declarations and/or briefs generally are required to address the ethical concerns involved whenever a retainer is paid by a third party. See Cal. Rule of Prof'l Conduct 1.8.6; *In re 9469 Beverly Crest, LLC* (Case No. 2:19-bk-20000-NB, dkt.44).

The tentative ruling is to set **a deadline of 3/9/21** for Debtor to file and serve whatever briefing and declaration(s) are necessary or appropriate to address the foregoing issues.

(2) Dates/procedures. This case was filed on 2/5/21.

- (a) Bar date: 4/16/21 per General Order 20-01 (70 days after petition date in Subchapter V cases) (DO NOT SERVE any notice: one has already been sent, see dkt.16).
- (b) Procedures order: dkt.3 (timely served, dkt.9)
- (c) Plan/Disclosure Statement: file by 5/6/21 (DO NOT SERVE - except on the U.S. Trustee). See the **revised** "Procedures of Judge Bason" (available at www.cacb.uscourts.gov) (search for "Chapter 11: Plan").
- (d) Continued status conference: 4/6/21 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

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Tentative Ruling for 2/25/21:

Appearances required by counsel for Debtor (pursuant to this Court's Procedures Order (dkt. 3), Debtor's principal is not required to appear at this Status Conference, but is required to appear at the status conference on 3/2/21 at 1:00 p.m.).

(1) Current issues

(a) Payroll motion (dkt. 19), order shortening time ("OST," dkt. 20), notice/proofs of service (dkt.22, 23)

On the one hand, service appears to be defective. On the other hand, subject to any opposition at the hearing, it appears that this Court can, and should, grant relief anyway.

(i) Defective service

As for service, the OST set this hearing on extremely short time - a hearing on 2/25/21 based on a telephonic request and motion on 2/22/21 - but in exchange Debtor was required to serve most creditors via overnight delivery, personal delivery, or other proper method of service, for receipt **no later than 2/23/21**. It appears that did not happen.

The proofs of service (dkt.22, 23) appear to show service on many creditors via U.S. mail, which is presumed to take 3 days (per Rule 9006(f), Fed. R. Bankr. P.) and therefore would arrive after the hearing. That is inadequate.

Many other creditors are shown as being served via email, and such service is ineffective absent consent (such as the consent provided by creditors who have agreed to be served via this Court's "NEF" system, by registering for CM/ECF privileges). The OST itself reminds litigants of that limitation. See dkt. 20, p.3 ("Service by electronic means (facsimile or email) requires compliance with F.R.Civ.P. 5(b)(2)(E)."); *and see* Rules 4(d) (waiving service) *and* 5(b)(2)(E) (regarding service via "electronic means that the person consented to in writing") (Fed. R. Civ. P.) (both incorporated by Rule 9014(b), Fed. R. Bankr. P.).

Moreover, although it is not entirely clear what Bankruptcy Rules apply to a payroll motion, some sort of "notice and a hearing" or opportunity for a hearing are almost universally required for any sort of motions in bankruptcy cases. See *generally* 11 U.S.C. 102(1). Traditionally, payroll motions usually are required to be served on the 20 largest unsecured creditors and other

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types of key creditors, as the OST provides.

(ii) Granting relief anyway

Despite the foregoing concerns, this Court recognizes that paying employees usually is critical, both (A) for the benefit of all parties with a stake in maintaining a debtor's going concern value and (B) in fairness to the employees who are providing their labor in reliance on the promise of payment. In addition, this Court is authorized and required, "at any time" and "with or without a hearing," to condition the use of any property of the bankruptcy estate on whatever terms are necessary to provide adequate protection of any interest in such property (11 U.S.C. 363(e)); and in this instance the tentative ruling is that Debtor, as a debtor in possession acting as a trustee for the benefit of creditors and all parties in interest, is requesting the authority to use estate funds in a way that is necessary to protect the interests of persons with an interest in the bankruptcy estate, by paying employees and maintaining Debtor's going concern value. Therefore the tentative ruling is that this Court is authorized, and indeed required, to grant the payroll motion at this time, without a hearing or further notice; but with a warning to Debtor and its counsel that this is a truly exceptional type of motion and that usually the failure to serve papers as required by an OST and/or any applicable rules would result in denial of a motion.

(2) Dates/procedures. This case was filed on 2/5/21.

- (a) Bar date: 4/16/21 per General Order 20-01 (70 days after petition date in Subchapter V cases) (DO NOT SERVE any notice: one has already been sent, see dkt.16).
- (b) Procedures order: dkt.3 (timely served, dkt.9)
- (c) Plan/Disclosure Statement: file by 5/6/21 (DO NOT SERVE - except on the U.S. Trustee). See the **revised** "Procedures of Judge Bason" (available at www.cacb.uscourts.gov) (search for "Chapter 11: Plan").
- (d) Continued status conference: 3/2/21 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you

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CONT... LAX In-Flite Services, LLC

Chapter 11

wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

LAX In-Flite Services, LLC

Represented By
Jeremy H Rothstein

Trustee(s):

John-Patrick McGinnis Fritz (TR)

Pro Se

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2:19-16482 Unified Protective Services, Inc.

Chapter 11

#3.00 Hrg re: Application for payment of Final fees and/or expenses (11 U.S.C. section 330) for Jennifer M Liu, Accountant

Docket 240

Tentative Ruling:

Please see the tentative ruling for the post-confirmation status conference (Calendar No. 5, 4/27/21 at 1:00 p.m.).

Party Information

Debtor(s):

Unified Protective Services, Inc.

Represented By
Michael Jay Berger

Movant(s):

Jennifer M Liu

Pro Se

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2:19-16482 Unified Protective Services, Inc.

Chapter 11

#4.00 Hrg re: Fourth and Final Fee Application for compensation
and reimbursement of expenses of Michael Jay Berger

Docket 234

Tentative Ruling:

Please see the tentative ruling for the post-confirmation status conference
(Calendar No. 5, 4/27/21 at 1:00 p.m.).

Party Information

Debtor(s):

Unified Protective Services, Inc.

Represented By
Michael Jay Berger

Movant(s):

Unified Protective Services, Inc.

Represented By
Michael Jay Berger

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2:19-16482 Unified Protective Services, Inc.

Chapter 11

#5.00 Status Conference re: Post Confirmation
fr. 7/2/19, 08/06/19, 8/20/19, 10/29/19, 12/10/19,
12/17/19, 1/14/20, 2/4/20, 3/3/20, 6/2/20, 8/18/20,
9/29/20, 10/27/20, 3/2/21

Docket 1

Tentative Ruling:

Tentative Ruling for 4/27/21:

Appearances are not required on 4/27/21.

(1) Current issues

(a) Final fee application of the Law Offices of Michael J. Berger (dkt. 234, 235), no opposition on file

Approve and allow Applicant's request for \$16,776.50 in fees and \$613.59 in costs, for a total award of \$17,390.09, and approve all previously approved interim fees and costs on a final basis.

(b) Final fee application of Jennifer M. Liu (dkt. 240, 241), Antoon Declaration in support (dkt. 243), no opposition on file

Approve and allow Applicant's request for \$2,025 in fees and \$40 in costs, for a total award of \$2,065, and approve all previously approved interim fees and costs on a final basis.

Proposed orders: Applicants are directed to lodge proposed orders on each of the foregoing applications via LOU within 7 days after the hearing date. See LBR 9021-(1)(b)(1)(B).

(2) Deadlines/dates

This case was filed on 6/19/20, and Debtor's plan was confirmed on 10/28/20 (dkt. 216). On 3/23/21, this Court entered an order granting Debtor's motion for entry of a final decree and order closing the case (dkt. 238). The tentative ruling is to vacate the 6/1/21 at 1:00 p.m. post-confirmation status conference and take this matter off-calendar.

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If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Unified Protective Services, Inc.

Represented By
Michael Jay Berger

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2:20-14175 Tea Station Investment Inc.

Chapter 11

#6.00 Hrg re: Claimant Baodi Zhou's Motion to Compel Depositions in a Contested Matter and Bankruptcy Rule 2004 Examination, and Production of Documents

Docket 196

***** VACATED *** REASON: Continued to 5/4/21 pursuant to stipulation (dkt. 213) and order thereon.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Tea Station Investment Inc.

Represented By
Leslie A Cohen

Trustee(s):

John-Patrick McGinnis Fritz (TR)

Pro Se

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2:20-14175 Tea Station Investment Inc.

Chapter 11

#7.00 Hrg re: Debtor's Motion Objecting to Proof of Claims of Baodi Zhou, or in the Alternative, Motion to Estimate Claims

Docket 184

***** VACATED *** REASON: Continued to 5/4/21 pursuant to stipulation (dkt. 213) and order thereon.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Tea Station Investment Inc.

Represented By
Leslie A Cohen

Movant(s):

Tea Station Investment Inc.

Represented By
Leslie A Cohen
Leslie A Cohen

Trustee(s):

John-Patrick McGinnis Fritz (TR)

Pro Se

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2:20-14175 Tea Station Investment Inc.

Chapter 11

#8.00 Cont'd Status Conference re: Chapter 11 Case
fr. 7/28/20, 9/1/20, 9/15/20, 9/29/20, 12/22/20,
1/26/21, 3/9/21, 4/6/21

Docket 15

***** VACATED *** REASON: Continued to 5/4/21 pursuant to stipulation
(dkt. 213) and order thereon.**

Tentative Ruling:

Party Information

Debtor(s):

Tea Station Investment Inc.

Represented By
Leslie A Cohen

Movant(s):

Tea Station Investment Inc.

Represented By
Leslie A Cohen
Leslie A Cohen

Trustee(s):

John-Patrick McGinnis Fritz (TR)

Pro Se

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2:21-11676 Cynthia C. Rodriguez

Chapter 11

#9.00 Hrg re: Motion in Individual Ch 11 Case for Order Pursuant to 11 U.S.C. Sec. 363 Setting Budget for Interim Use of Estate Property as Defined in 11 U.S.C. Sec. 1115

Docket 36

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 10, 4/27/21 at 1:00 p.m.).

Party Information

Debtor(s):

Cynthia C. Rodriguez

Represented By
Mufthiha Sabaratnam

Movant(s):

Cynthia C. Rodriguez

Represented By
Mufthiha Sabaratnam

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2:21-11676 Cynthia C. Rodriguez

Chapter 11

#10.00 Cont'd Status Conference re: Chapter 11 Case
fr. 3/23/21

Docket 1

Tentative Ruling:

Tentative Ruling for 4/27/21:

Appearances required.

(1) Current issues

(a) Order to show cause re conversion, dismissal or other remedies (dkt. 52, the "OSC"), proof of service (dkt. 55), Debtor's declaration (dkt. 57)

Based on this Court's review of Debtor's declaration, the tentative ruling is to discharge the OSC. After the hearing, this Court will prepare the order.

(b) Budget motion (dkt. 36), no opposition on file

The tentative ruling is to set a deadline of **5/4/21** for Debtor to file and serve an amended budget motion to account for (i) giving up her 2002 vehicle, (ii) no longer receiving a contribution to rent from her boyfriend, (iii) receiving rent from her brother, starting at \$200 per month, and (iv) any expenses associated with Gamblers Anonymous.

(c) Late service of bar date order

This Court's bar date order (dkt. 39) set a deadline of 3/30/21 for Debtor to serve all interested parties and file a proof of service. On 4/13/21 Debtor filed a proof of service (dkt. 46) and a declaration from Debtor's Counsel (dkt. 48) explaining that Counsel overlooked this Court's entry of the bar date order and did not serve creditors until presumably 4/13/21. This Court notes that even such delayed service will still provide creditors with 64 days' notice of the claims bar date so, in the absence of any evidence of prejudice, the tentative ruling is that such service is sufficient. But Counsel is cautioned that failure to timely comply with this Court's orders in future may result in the imposition of sanctions or other adverse consequences.

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(d) Lawsuit

This Court's 3/23/21 Tentative Ruling noted that Debtor listed a lawsuit in line 9 of the SOFA and directed her to address the nature and status of the lawsuit at the prior hearing. But it appears this issue was not addressed at the 3/23/21 hearing. Accordingly, *if* this Court is persuaded to adopt its tentative ruling on the OSC, Debtor should be prepared to address the nature and status of the litigation and whether she intends to seek authorization to hire special counsel.

(2) Dates/procedures. This case was filed on 3/2/21.

(a) Bar date: 6/16/21 (dkt. 39) (not timely served, dkt. 46)

(b) Procedures order: dkt.18 (timely served, dkt.25)

(c) Plan/Disclosure Statement: TBD

(d) Continued status conference: *If* this Court is persuaded to adopt its tentative ruling on the OSC, 5/11/21 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 3/23/21:

Appearances required by counsel for Debtor and by Debtor herself.

(1) Current issues

(a) Budget motion

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Debtor's status report states that a budget motion is not required by the presiding judge's procedures. Dkt. 32, p.3. That is wrong (see posted "Procedures of Judge Bason," available at www.uscourts.gov). The tentative ruling is to set a deadline of **3/30/21** for Debtor to file a budget motion with a hearing concurrent with the continued status conference. Counsel is cautioned not to mis-state the applicable procedures in future.

(b) Gambling

Debtor has a serious gambling problem, according to at least two sources. First, this Court's records (from a hearing on 6/13/19, and associated filed documents in case no. 2:14-bk-20138-NB) indicate that Debtor's previous bankruptcy case was dismissed due to problems caused by Debtor's gambling. Second, in this current case Debtor's Statement Of Financial Affairs ("SOFA") states on line 5 that Debtor has had substantial gross income from gambling in 2019 (\$48,306.00 gross income) and 2020 (\$50,108.00 gross income). See SOFA (dkt.6), p.2. It is unclear what net income (or loss) Debtor has had from gambling, although in her papers filed in her prior case she vaguely asserted that her gross income was artificially inflated by the way that casinos report winnings, and she implied that her net income was small (or perhaps she had a net loss).

Based on the limited information available from Debtor's filed documents, it appears that either (i) she failed to devote her gambling winnings to paying her creditors, or alternatively (ii) she actually suffering losses, which were being funded somehow, and thus she must have been under-reporting her income. In any event, Debtor failed to "do the math" in her prior bankruptcy case to explain her true financial picture.

Is Debtor still gambling? Is she receiving treatment for her apparent gambling addiction? How can creditors have any assurance that, in this latest bankruptcy case, Debtor either has stopped gambling or is keeping her gambling to a very low amount that is taken out of funds that would not otherwise go to creditors? How can creditors have any assurance that Debtor has been truthful and will in future devote all disposable income to paying her debts? What tangible remedies could be imposed to provide assurances to creditors?

(c) Bankruptcy schedules (dkt.21)

Debtor's Bankruptcy Schedule J (dkt.21 at PFD p.43) does not list any gambling expense. Has Debtor entirely stopped gambling? If she alleges so, how can that be verified?

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(d) Attorney fees

Debtor's SOFA states on line 16 that Debtor paid \$-0- to her proposed bankruptcy counsel. See SOFA (dkt. 6), at PDF p.4. That is inconsistent with other filed documents, and not credible; but Debtor signed the SOFA under penalty of perjury. Again, how can creditors rely on anything that Debtor says if she is prepared to sign false documents?

(e) Lawsuit

What is the nature and status of the lawsuit identified in line 9 of the SOFA? Debtor reports that she disputes the allegations and has filed a response. Will Debtor be seeking authorization to hire special counsel?

(2) Dates/procedures. This case was filed on 3/2/21.

(a) Bar date: 6/16/21 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Procedures order: dkt.18 (timely served, dkt.25)

(c) Plan/Disclosure Statement: TBD

(d) Continued status conference: 4/27/21 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Cynthia C. Rodriguez

Represented By

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Cynthia C. Rodriguez

Mufthiha Sabaratnam

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2:21-11676 Cynthia C. Rodriguez

Chapter 11

#10.10 Order to show cause why this case should not be dismissed with a bar to being a debtor in bankruptcy, converted to chapter 7, or other remedies imposed

Docket 52

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 10, 4/27/21 at 1:00 p.m.).

Party Information

Debtor(s):

Cynthia C. Rodriguez

Represented By
Mufthiha Sabaratnam

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2:21-11720 Jose Angel Rosales

Chapter 11

#11.00 Cont'd Status Conference re: Chapter 11 Case
fr. 03/23/21, 3/31/21

Docket 1

Tentative Ruling:

Tentative Ruling for 4/27/21:

Appearances required

(1) Current issues

(a) Application to employ bankruptcy counsel (dkt. 43), UST objection (dkt. 49), Declaration of Nancy Korompis (dkt. 54), UST's response (dkt. 56)

Grant the application and authorize employment under 11 U.S.C. 327(a) with compensation pursuant to 11 U.S.C. 330 (*not* 11 U.S.C. 328(a)).

Proposed order: Applicant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(b) Amended budget motion

This Court's order setting this continued status conference and related deadlines (dkt. 48) directed Debtor to file an amended budget motion by 4/6/21. As of the preparation of this tentative ruling, Debtor has not complied. Why not?

(c) Declaration of income/expenses (dkt. 53)

This Court has reviewed Debtor's supplemental declaration. Debtor states that he did not have sufficient time to provide financial statements for January and February 2021, but would provide them within 7 days of the hearing. But as of the preparation of this tentative ruling those statements have not been filed. Why not?

(d) Monthly Operating Reports ("MORs")

This Court notes that Debtor's March MOR was filed 4 days late, on 4/19/21. Debtor is cautioned that failure to timely file future MORs may result in adverse consequences.

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- (2) Dates/procedures. This case was filed on 3/3/21. If this case is not dismissed, the tentative ruling is to set the following dates/deadlines:
- (a) Bar date: 6/16/21 (dkt. 35; timely served, dkt. 44)
 - (b) Procedures order: dkt.14 (timely served, dkt. 21, amended by dkt. 22)
 - (c) Plan/Disclosure Statement: TBD
 - (d) Continued status conference: 5/11/21 at 1:00 p.m., no written status report required.
- *Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 3/31/21:
Appearances required.

- (1) Current issues
- (a) Motion to continue/impose the stay (dkt. 26), Application for OST (dkt. 27), Order shortening time (dkt. 31)
Grant, subject to any opposition at the hearing. Please see the tentative ruling for Calendar No. 2 (on 3/31/21 at 10:00 a.m.).
 - (b) Budget motion (dkt. 28)
This Court's tentative ruling for 3/23/21 at 1:00 p.m. (see Section 1(c) copied below) highlighted that Debtor's bankruptcy schedules "I" & "J" failed

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to adequately report income/expenses as directed by the form. Notwithstanding this Court's directions to Debtor to file amended schedules, Debtor's budget motion attaches his original schedules. See dkt. 28 at PDF pp.6-9. The tentative ruling is to set a **deadline of 4/6/21** for Debtor to file and serve (i) corrected bankruptcy schedules I & J and (ii) an amended budget motion with those corrected schedules attached.

(c) Transcription errors and inaccurate representations

Debtor's status report (dkt. 29, p.2) states that this case was filed on 3/4/202[1] (emphasis added), but the actual date is 3/3/2021. Additionally, Debtor's notices of hearings (dkt. 30, p.1 & dkt. 33, p.1) incorrectly state in the caption that Judge Bason's courtroom is located in "Woodland Hills, CA 91367." Debtor's Counsel is encouraged to review filed papers carefully to avoid unnecessary confusion to creditors and this Court.

(2) Dates/procedures. This case was filed on 3/3/21. If this case is not dismissed, the tentative ruling is to set the following dates/deadlines:

(a) Bar date: 6/16/21 (dkt. 35, 3/30/21 deadline to file proof of service)

(b) Procedures order: dkt.14 (timely served, dkt.21, amended by dkt. 22)

(c) Plan/Disclosure Statement: TBD

(d) Continued status conference: 4/27/21 at 1:00 p.m.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

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Tentative Ruling for 3/23/21:

Appearances required by counsel for Debtor and by Debtor himself.

(1) Current issues

This is Debtor's eighth bankruptcy case since 2000. This latest case is off to a bad start, as detailed below. Debtor is directed to address whether this Court should dismiss this case with a permanent bar against being a debtor in bankruptcy, or impose other relief.

(a) Status report

Debtor has ignored this Court's order to file a status report. See Procedures Order, dkt. 14. If this case is not dismissed, the tentative ruling is to set a **deadline of 3/30/21** to file the required status report and serve it on all creditors.

(b) "First Day" motions

Debtor has failed to file any so-called "first day" motions. For example, (i) although Debtor's prior case (Case No. 2:20-bk-17479-NB) was dismissed on 2/11/21, Debtor has failed to file a motion in this case to continue the automatic stay under 11 U.S.C. 362(c)(3), so it appears that the automatic stay has expired; (ii) Debtor has not filed a budget motion, which is particularly important because in Debtor's prior case there were allegations that Debtor was hiding income; and (iii) Debtor has not filed a payroll motion (which might be needed if his "part time contract laborer" or any other persons are employed/hired by Debtor, as distinguished from being employed by Debtor's business in its ordinary course, see dkt.12, at PDF p.13), etc. The damage from not having filed such motions might be irreparable.

For example, as noted above, the automatic stay appears to have expired, with no opportunity to extend it (per section 362(c)(3)). This means that (x) Debtor and the bankruptcy estate appear to be exposed to the risk that lienholders will foreclose on the principal asset of the estate (Debtor's home), (y) creditors might be free to seek to levy on bank accounts and otherwise collect debts, which presumably could interfere with any effort to reorganize, and (z) if creditors are free to pursue their remedies that can be a "race to collect," which is potentially unfair to creditors. For all of these reasons, this Court questions whether this bankruptcy case should be dismissed.

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If this case is not dismissed, the tentative ruling is to set a deadline of **3/30/21** to file whatever "first day" motions are appropriate, with a hearing concurrent with the continued status conference. Debtor is directed to address at the hearing what motions are required or appropriate.

(c) Unreported income/expenses

Debtor apparently has income from a property or business but has failed to provide a breakdown of gross receipts, ordinary and necessary business expenses, and calculation of the resulting monthly net income as directed by the form. See dkt. 12 at PDF p.24 (bankruptcy schedule "I" line 8a).

Debtor is reminded that this Court's Procedures Order (dkt.14) requires him to report all income and expenses from his business as if it were a co-debtor in bankruptcy, including on Monthly Operating Reports ("MORs").

If this case is not dismissed, the tentative ruling is to set a **deadline of 3/30/21** for Debtor to file an amended Schedule I with a comprehensive breakdown of gross revenues, expenses, and net income. The tentative ruling is that such a breakdown must be accompanied by Debtor's declaration under penalty of perjury, with copies of receipts and other documentation to establish an accurate picture of Debtor's typical monthly income and expenses.

(2) Dates/procedures. This case was filed on 3/3/21. If this case is not dismissed, the tentative ruling is to set the following dates/deadlines:

(a) Bar date: 6/16/21 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Procedures order: dkt.14 (timely served, dkt.21, amended by dkt. 22)

(c) Plan/Disclosure Statement: TBD

(d) Continued status conference: 4/27/21 at 1:00 p.m.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter

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Hearing Room 1545

1:00 PM

CONT...

Jose Angel Rosales

Chapter 11

by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Jose Angel Rosales

Represented By
Nancy Korompis

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Hearing Room 1545

1:00 PM

2:21-11352 Stern Holdings, Inc.

Chapter 11

#12.00 Cont'd status conference re: Chapter 11 case
fr. 3/23/21

Docket 1

Tentative Ruling:

Tentative Ruling for 4/27/21:

Appearances required.

(1) Current issues

(a) Service of bar date order

This Court's bar date order (dkt. 18) set a deadline of 3/30/21 for Debtor to serve all interested parties. As of the preparation of this tentative ruling, there is no proof of service reflecting that Debtor timely complied. Have creditors been served with the bar date order? If so, when did that occur and why has Debtor not filed a proof of service?

(b) Monthly Operating Reports ("MORs")

As of the preparation of this tentative ruling, Debtor has not filed its March MOR. Why not?

(2) Dates/procedures. This case was filed on 2/19/21.

(a) Bar date: 5/28/21 (dkt. 18, no proof of service on file)

(b) Procedures order: dkt.3 (timely served, dkt.5)

(c) Plan/Disclosure Statement: TBD

(d) Continued status conference: 6/1/21 at 1:00 p.m. *Brief* status report due 5/18/21.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter

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CONT... Stern Holdings, Inc.

Chapter 11

by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 3/23/21:

Appearances required by counsel for Debtor and by Debtor's principal.

(1) Current issues

(a) Untimely Status report

Debtor filed its status report (dkt. 15) four days late, on 3/13/21, without providing any explanation for the late filing. Debtor/counsel are cautioned that failure to timely comply with this Court's orders in future may result in adverse consequences.

(b) First-day motions

Debtor's status report states that a budget motion is not required by the presiding judge's procedures. Dkt. 15, p.3. That is wrong (see posted "Procedures of Judge Bason," available at www.cacb.uscourts.gov), but the tentative ruling is to excuse this requirement with a caution to counsel not to mis-state the applicable procedures.

If Debtor has not filed an employment application or any other typical so-called "first-day" motion(s) by the time of this hearing, the tentative ruling is to set a deadline of **3/30/21** for Debtor to file any outstanding motion(s) with a hearing concurrent with the continued status conference. Debtor is directed to address at the hearing what other motions are required or appropriate.

(c) Monthly Operating Reports ("MORs")

As of the preparation of this tentative ruling, Debtor has not filed its February MOR. Why not?

(d) Only two creditors?

Debtor's creditor matrix includes only two creditors. Is that really true? How about the City of Fontana which, according to Debtor's Status Report

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CONT... Stern Holdings, Inc.

Chapter 11

(dkt.15), is considering citations for alleged "violations" of some sort? How about former employees, tax authorities, and other typical creditors?

(2) Dates/procedures. This case was filed on 2/19/21.

(a) Bar date: 5/28/21 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Procedures order: dkt.3 (timely served, dkt.5)

(c) Plan/Disclosure Statement: TBD

(d) Continued status conference: 4/27/21 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Stern Holdings, Inc.

Represented By
Matthew Abbasi

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2:21-10368 Mrudula Kothari

Chapter 11

#13.00 Cont'd Status Conference re: Chapter 11 Case
fr. 2/9/21, 03/02/21, 4/6/21

Docket 1

Tentative Ruling:

Tentative Ruling for 4/27/21:

Appearances required.

(1) Current issues

(a) Debtor's plan of reorganization (dkt. 22, "Plan")
There is no tentative ruling. Appearances required.

(b) Monthly Operating Reports ("MORs")

As of the preparation of this tentative ruling, Debtor has not filed her March MOR. Why not?

This Court also notes that Debtor has consistently filed her MORs late. See January MOR (dkt. 31, filed 4 days late); February MOR (dkt. 45, filed 5 days late); March MOR (not filed as of preparation of this tentative ruling). Debtor is cautioned that failure to timely satisfy her reporting obligations creates more work for this Court and parties in interest. In future this Court may impose sanctions or other adverse consequences if Debtor continues to file untimely MORs.

(2) Dates/procedures. This case was filed on 1/19/21 .

(a) Bar date: 3/30/21 per General Order 20-01 (70 days after petition date in Subchapter V cases) (DO NOT SERVE any notice: one has already been sent, see dkt. 11).

(b) Procedures order: dkt. 8 (timely served, dkt. 12)

(c) Plan/Disclosure Statement: see above

(d) Continued status conference: 6/1/21 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

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CONT...

Mrudula Kothari

Chapter 11

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 4/6/21:

Continue as set forth below. Appearances are not required on 4/6/21.

(1) Current issues

This Court has no issues to raise *sua sponte* at this time.

(2) Dates/procedures. This case was filed on 1/19/21 .

- (a) Bar date: 3/30/21 per General Order 20-01 (70 days after petition date in Subchapter V cases) (DO NOT SERVE any notice: one has already been sent, see dkt. 11).
 - (b) Procedures order: dkt. 8 (timely served, dkt. 12)
 - (c) Plan/Disclosure Statement: file by 4/16/21 (DO NOT SERVE - except on the U.S. Trustee). See the **revised** "Procedures of Judge Bason" (available at www.cacb.uscourts.gov) (search for "Chapter 11: Plan").
 - (d) Continued status conference: 4/27/21 at 1:00 p.m. No written status report is required.
- *Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

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Mrudula Kothari

Chapter 11

are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Mrudula Kothari

Represented By
Stella A Havkin

Trustee(s):

Susan K Seflin (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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1:00 PM

2:20-20260 33 Quincy Avenue LLC

Chapter 11

#14.00 Cont'd status conference re: Chapter 11 case
fr. 12/1/20, 1/5/21, 1/26/21, 3/9/21, 3/23/21

Docket 1

***** VACATED *** REASON: Case dismissed on 4/13/21 (see dkt. 67)**

Tentative Ruling:

Party Information

Debtor(s):

33 Quincy Avenue LLC

Represented By
Michael Jay Berger

Trustee(s):

Susan K Seflin (TR)

Pro Se

**United States Bankruptcy Court
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1:00 PM

2:20-20550 Andrew Ming Zhou

Chapter 7

#15.00 Cont'd hrg re: Motion for a Bankruptcy Rule 2004 Examination of Debtor Andrew Zhou and for Production of Documents fr. 2/18/21, 3/23/21

Docket 15

***** VACATED *** REASON: Voluntary Dismissal of motion filed 4/9/21**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Andrew Ming Zhou

Represented By
Jeffrey J Hagen

Movant(s):

So Cal Product Solutions LLC

Represented By
Matthew Barzman

Trustee(s):

Elissa Miller (TR)

Pro Se

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Hearing Room 1545

1:00 PM

2:20-19443 Joshuaville, LLC

Chapter 11

#16.00 Cont'd Status Conference re: Chapter 11 Case
fr. 11/10/20, 12/22/20, 1/26/21, 03/02/21, 03/23/21,
4/6/21

Docket 1

***** VACATED *** REASON: Cont'd to 6/15/21 at 1:00 p.m.**

Tentative Ruling:

Party Information

Debtor(s):

Joshuaville, LLC

Represented By
Leslie A Cohen

Trustee(s):

Moriah Douglas Flahaut (TR)

Pro Se

**United States Bankruptcy Court
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1:00 PM

2:20-18370 New Hillcrest Inc., a Cayman Island Corporation

Chapter 11

#17.00 Cont'd Status Conference re: Chapter 11 Case
fr. 10/6/20, 12/1/20, 1/26/21, 3/2/21, 4/6/21

Docket 1

Tentative Ruling:

Tentative Ruling for 4/27/21:

Appearances required.

(1) Current issues

(a) Debtor's finance motion (dkt. 76, 77), oppositions due at the hearing

There is no tentative ruling. Debtor should be prepared to address (i) why no proof of service is on file (as of the preparation of this tentative ruling) and how this Court can determine whether notice and service were proper without any evidence of service, (ii) how Debtor proposes to fund the \$1,043,932.54 figure required to close the proposed transaction (see dkt. 76, at PDF p.17).

(2) Deadlines/dates. This case was filed on 9/15/20.

(a) Bar date: 12/7/20 (dkt.23; timely served, dkt.25)

(b) Procedures order: dkt.4 (timely served, dkt.6, supplemented by dkt.21)

(c) Plan/Disclosure Statement*: file by 5/13/21 (dkt 64). See the **revised** "Procedures of Judge Bason" (available at www.cacb.uscourts.gov) (search for "Chapter 11: Plan").

(d) Continued status conference: 6/1/21 at 1:00 p.m. *Brief* status report due 5/18/21.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

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CONT... **New Hillcrest Inc., a Cayman Island Corporation**

Chapter 11

are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 4/6/21:

Continue as set forth below. Appearances are not required on 4/6/21.

(1) Current issues

(a) Status of sale efforts

As of the preparation of this tentative ruling the docket does not reflect any motion to approve any sale of Debtor's principal asset, as Debtor has been hoping. Nevertheless, it is possible that a sale might materialize, and meanwhile this Court wishes to avoid the expense of a hearing if no hearing is necessary, so the tentative ruling is to continue this Status Conference as provided below. The continued date is the last regularly scheduled hearing date before any foreclosure sale can occur under this Court's order (dkt.60) granting relief from the automatic stay to creditor Amit Tidhar.

(2) Deadlines/dates. This case was filed on 9/15/20.

(a) Bar date: 12/7/20 (dkt.23; timely served, dkt.25)

(b) Procedures order: dkt.4 (timely served, dkt.6, supplemented by dkt.21)

(c) Plan/Disclosure Statement*: file by 5/13/21 (dkt 64). See the **revised** "Procedures of Judge Bason" (available at www.cacb.uscourts.gov) (search for "Chapter 11: Plan").

(d) Continued status conference: 4/27/21 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances

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CONT... New Hillcrest Inc., a Cayman Island Corporation Chapter 11

required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

New Hillcrest Inc., a Cayman Island

Represented By
Brett Ramsaur

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1:00 PM

2:20-18370 New Hillcrest Inc., a Cayman Island Corporation

Chapter 11

#17.10 Hrg re: Motion for Order Authorizing Postpetition Financing on Secured Basis Pursuant to 11 U.S.C. § 364(c)(3) to Provide for the Refinance of 701 North Hillcrest Road, Beverly Hills, California 90210

Docket 76

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 17, 4/27/21 at 1:00 p.m.).

Party Information

Debtor(s):

New Hillcrest Inc., a Cayman Island

Represented By
Brett Ramsaur

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1:00 PM

2:21-12517 Law Offices of Brian D. Witzer

Chapter 11

#18.00 Cont'd hrg re: Debtor Law Offices of Brian D. Witzer, Inc.'s
Emergency Motion for Order Authorizing Interim Use
of Cash Collateral
fr. 3/31/21

Docket 6

Tentative Ruling:

Tentative Ruling for 4/27/21:

Please see the tentative ruling for the Status Conference (calendar no. 20,
4/27/21 at 1:00 p.m.).

Tentative Ruling for 3/31/21:

Please see the tentative ruling for the Status Conference (calendar no. 1,
3/31/21 at 2:00 p.m.).

Party Information

Debtor(s):

Law Offices of Brian D. Witzer

Represented By
Michael Jay Berger

Movant(s):

Law Offices of Brian D. Witzer

Represented By
Michael Jay Berger

**United States Bankruptcy Court
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1:00 PM

2:21-12517 Law Offices of Brian D. Witzer

Chapter 11

#19.00 Cont'd hrg re: Motion in Individual Chapter 11 Case for Order Approving a Budget for the Use of the Debtor's Cash and Post-Petition Income fr. 3/31/21

Docket 7

Tentative Ruling:

Tentative Ruling for 4/27/21:

Please see the tentative ruling for the Status Conference (calendar no. 20, 4/27/21 at 1:00 p.m.).

Tentative Ruling for 3/31/21:

Please see the tentative ruling for the Status Conference (calendar no. 1, 3/31/21 at 2:00 p.m.).

Party Information

Debtor(s):

Law Offices of Brian D. Witzer

Represented By
Michael Jay Berger

Movant(s):

Law Offices of Brian D. Witzer

Represented By
Michael Jay Berger

**United States Bankruptcy Court
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1:00 PM

2:21-12517 Law Offices of Brian D. Witzer

Chapter 11

#20.00 Cont'd Status Conference re: Chapter 11 Case
fr. 3/31/21

Docket 1

Tentative Ruling:

Tentative Ruling for 4/27/21:

Appearances required by counsel for Debtor and by Debtor's principal.

(1) Current issues

(a) Debtor's Emergency Motion for Order Authorizing Interim Use of Cash Collateral (dkt. 6), Debtor's Supplemental Declaration (dkt. 31), Pravati Credit Fund III LP's Opposition (dkt. 46), Debtor's Reply (dkt. 58), Debtor's Motion for Order Approving Budget for Use of the Debtor's Cash and Postpetition Income (dkt. 7)

The tentative ruling is to grant the motion on a further interim basis. While this Court agrees with Pravati that the evidence to support Debtor's actual and projected budgets falls short of what should have been provided, and that Debtor's proposed \$15,000 monthly payments do not appear even to cover the statutory interest accruing on its claim, nevertheless Pravati's position is weakened in two respects.

First, Debtor has provided strong evidence that Pravati's lien is avoidable under 11 U.S.C. § 547 and has indicated that it will initiate an adversary proceeding to avoid that lien, changing Pravati's asserted secured claim to an unsecured claim. Dkt. 58, pp. 2:17–20, 3:23–26. Second, this Court is also concerned that denying the motion would run the risk of undermining Debtor's ability to generate revenues for the benefit of all creditors, thereby reducing the potential distribution to creditors, including Pravati, under any plan. Both of these factors favor granting the motion on a further interim basis, with a continued hearing concurrent with the continued status conference (see below), while also permitting Pravati to engage in reasonable, fairly limited discovery to (i) verify past expenditures and (ii) support Debtor's projected future expenditures. The parties are reminded to review the "Posted Procedures of Judge Bason" (available at www.cacb.uscourts.gov) regarding discovery disputes (and any other relevant matters).

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CONT... Law Offices of Brian D. Witzer

Chapter 11

(b) Proof of Service of the Court's Order Setting (A) Principal Status Conference and (B) Procedures (dks. 4, 15).

On 3/30/21, this Court issued its Order Setting (A) Principal Status Conference and (B) Procedures (the "Procedures Order"). The Procedures Order directed Debtor to serve all parties in interest via U.S. Mail and to file a proof of service with the Court.

On 3/31/21, Debtor's counsel submitted a declaration of one of his employees (the "Employee Declaration") stating that he caused the Procedures Order to be served on a list of parties. A proof of service was attached as Exhibit A to the Employee Declaration, but the proof of service does not list any parties served via U.S. Mail. The tentative ruling is to direct Debtor, no later than **4/29/21**, either (x) to serve a corrected Employee Declaration showing the missing names or (y) to serve the Procedures Order on all parties who have not been served and file a supplemental proof of service.

(2) Dates/procedures. This case was filed on 3/29/21.

(a) Bar date: 7/6/21 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Procedures order: dkt. 4 (not timely served, dkt. 8, see above)

(c) Plan/Disclosure Statement: TBD

(d) Continued status conference: 5/11/21 at 1:00 p.m., *brief* status report due 5/18/21.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative

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CONT... Law Offices of Brian D. Witzer

Chapter 11

rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 3/31/21:

Appearances required by counsel for Debtor.

(1) Current issues

Subject to any opposition at the hearing, the tentative ruling is, notwithstanding certain deficiencies in service (to be reviewed at the hearing), to grant very limited interim relief to avoid immediate and irreparable harm and set continued hearings on Debtor's payroll motion, cash collateral motion, and budget motion, concurrent with the continued Status Conference set forth below, all pursuant to 11 U.S.C. 363(b) and (e) and Rules 2002(a)(2), 4001(b)(2), and 6003(b) (Fed. R. Bankr. P.).

Proposed orders: Debtor is directed to lodge proposed orders on each of the above-referenced motions via LOU within 7 days after the hearing date and attach a copy of this tentative ruling, thereby adopting it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

(2) Dates/procedures. This case was filed on 3/29/21.

- (a) Bar date: TBD
- (b) Procedures order: dkt.4 (service deadline 4/1/21)
- (c) Plan/Disclosure Statement: TBD. See the **revised** "Procedures of Judge Bason" (available at www.cacb.uscourts.gov) (search for "Chapter 11: Plan").
- (d) Continued status conference: 4/27/21 at 1:00 p.m., initial status report due 4/13/21

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's

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CONT... Law Offices of Brian D. Witzer

Chapter 11

COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Law Offices of Brian D. Witzer

Represented By
Michael Jay Berger

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Hearing Room 1575

1:00 PM

2:20-15954 John Martin Kennedy

Chapter 11

#21.00 Cont'd hrg re: Objection to Claim Number 2 Filed by Yunuen Campos; and Motion to (1) Determine the Amount of the Claim of Yunuen Campos Pursuant to Bankruptcy Code § 506(a) and FRBP 3012, or (2) in the Alternative Motion to Estimate the Claim of Yunuen Campos fr. 3/23/21

Docket 257

Tentative Ruling:

Tentative Ruling for 4/27/21:

Please see the tentative ruling for the status conference (Calendar No. 24, 4/27/21 at 1:00 p.m.).

Tentative Ruling for 3/23/21:

Please see the tentative ruling for the status conference (Calendar No. 11, 3/23/21 at 1:00 p.m.).

Party Information

Debtor(s):

John Martin Kennedy

Represented By

Sandford L. Frey

Dennette A Mulvaney

Movant(s):

John Martin Kennedy

Represented By

Sandford L. Frey

Dennette A Mulvaney

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 27, 2021

Hearing Room 1545

1:00 PM

2:20-15954 John Martin Kennedy

Chapter 11

#22.00 Cont'd hrg re: Motion for Entry of an Order
Granting a Limited Stay Pending Appeal
fr. 4/6/21

Docket 280

Tentative Ruling:

Tentative Ruling for 4/27/21:

Please see the tentative ruling for the status conference (Calendar No. 24, 4/27/21 at 1:00 p.m.).

Tentative Ruling for 4/6/21:

Please see the tentative ruling for the status conference (Calendar No. 14, 4/6/21 at 1:00 p.m.).

Party Information

Debtor(s):

John Martin Kennedy

Represented By
Sandford L. Frey
Dennette A Mulvaney

Movant(s):

Yunuen Campos

Represented By
Lauren A Dean

**United States Bankruptcy Court
Central District of California
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Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 27, 2021

Hearing Room 1545

1:00 PM

2:20-15954 John Martin Kennedy

Chapter 11

#23.00 Combined hrg re: Approval of Disclosure Statement and Confirmation of Plan
fr. 4/6/21

Docket 230

Tentative Ruling:

Tentative Ruling for 4/27/21:

Please see the tentative ruling for the status conference (Calendar No. 24,
4/27/21 at 1:00 p.m.).

Tentative Ruling for 4/6/21:

Please see the tentative ruling for the status conference (Calendar No. 14,
4/6/21 at 1:00 p.m.).

Party Information

Debtor(s):

John Martin Kennedy

Represented By

Sandford L. Frey

Dennette A Mulvaney

**United States Bankruptcy Court
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#24.00 Cont'd Status Conference re: Chapter 11 Case
fr. 7/14/20, 7/28/20, 8/18/20, 9/15/20, 9/29/20,
10/27/20, 11/10/20, 12/1/20, 12/8/20, 12/22/20,
01/26/21,3/23/21, 4/6/21

Docket 1

Tentative Ruling:

Tentative Ruling for 4/27/21:

Appearances required.

(1) Current issues

(a) Motion of Yunuen Campos for stay pending appeal (dkt. 280, the "Stay Motion"), application for hearing on shortened time (dkt. 279, "Application for OST"), Order shortening time (dkt. 288, "OST"), Notice of hearing (dkt. 291) & proof of service (dkt. 292), Debtor's opposition to Application for OST (dkt. 293), Debtor's opposition to Stay Motion (dkt. 296), Debtor's supplemental opposition (dkt. 311), Ms. Campos' reply (dkt. 317)

There is no tentative ruling. The parties should be prepare to address the issues raised in Ms. Campos' reply papers.

(b) Debtor's amended chapter 11 plan of reorganization & disclosure statement (dkt. 250, 251, 265 "Plan") & disclosure statement (251, "DS"), related Orders (dkt. 247, 255), Opposition of Yunuen Campos (dkt. 272), Proof of service of voting package (dkt. 281), Ballot summary/analysis (dkt. 282, 283), Debtor's reply (dkt. 284, 287) & supporting declarations (dkt. 285, 286), related Memorandum Decision (dkt. 121) and interim Order (dkt. 144) re assumption of Mediation Term Sheet (dkt.251, Ex.D, at PDF pp.54-56), Debtor's notice re same (dkt. 227), notice of appeal (dkt. 147), and claim objection Order (dkt. 277) (sustaining Debtor's objection to Ms. Campos' claim above dollar amount in Mediation Term Sheet), Debtor's supplemental papers (dkt. 310), Ms. Campos' supplemental response (dkt. 318)

There is no tentative ruling. The parties should be prepared to address the outstanding plan confirmation issues.

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(c) Debtor's objection to Claim 2 filed by Yunuen Campos (dkt. 257), Ms. Campos' opposition (dkt. 261), Debtor's reply (dkt. 266)

There is no tentative ruling. The parties should be prepared to discuss whether this Court should set a briefing schedule at this time to determine the outstanding pre-petition accounting issues.

(d) Campos v. Kennedy (Adv. No. 2:20-ap-01626-NB)

There is no tentative ruling. The outcome of this proceeding may depend on this Court's disposition of the outstanding plan confirmation issues.

(2) Deadlines/dates. This case was filed on 6/30/20.

(a) Bar date: 10/2/20 (dkt. 39) (timely served, dkt. 52)

(b) Procedures order: dkt.4 (timely served, dkt.18).

(c) Plan (dkt. 250)/Disclosure Statement* (dkt. 230): see above

(d) Post-confirmation status conference: 5/4/21 at 1:00 p.m., concurrent with other matters. No status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 4/6/21:

Appearances required.

(1) Current issues

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Chapter 11

(a) Motion of Yunuen Campos for stay pending appeal (dkt. 280, the "Stay Motion"), application for hearing on shortened time (dkt. 279, "Application for OST"), Order shortening time (dkt. 288, "OST"), Notice of hearing (dkt. 291) & proof of service (dkt. 292), Debtor's opposition to Application for OST (dkt. 293)

Subject to oral argument at the hearing, the tentative ruling is to grant a stay during appellate proceedings before the Bankruptcy Appellate Panel for the Ninth Circuit (the "BAP"), but only impose any such stay *after* any ruling on whether or not to confirm Debtor's proposed chapter 11 Plan.

The reasons are:

(i) although it appears to this Court that Ms. Campos is unlikely to succeed on the merits of her pending appeal or any future appeal from any confirmation order, nevertheless the legal questions she raises are serious and the facts and circumstances presented are unique in this Court's experience;

(ii) although it is unclear whether Ms. Campos would suffer any harm, let alone irreparable harm -- and to the contrary she would appear to benefit if this Court were to confirm Debtor's proposed Plan and she were to start receiving payments from Debtor -- nevertheless it is conceivable that any confirmation order might have a preclusive effect, and thereby limit the dollar amount of her claim if these proceedings were not stayed, and that issue has not been briefed nor is it clear that this Court could determine the preclusive effect of its own orders, so it is conceivable that Ms. Campos would suffer irreparable harm absent a stay, and the dollar amounts are very large so the potential prejudice to Ms. Campos is substantial;

(iii) on the one hand, it is true that if any confirmation order is stayed then other parties in interest will be delayed in receiving payments under the proposed Plan, but on the other hand it appears that any delay will probably not be very long given the pace of proceedings before the BAP, both in this case and in general;

(iv) the public interest does not appear to cut either way.

The tentative ruling is that the stay would only last through the conclusion of proceedings before the BAP, not any subsequent appeals (which could take long enough to cause substantial prejudice to Debtor and other parties).

In addition, the tentative ruling is that this Court would reserve jurisdiction and authority to terminate any stay at any future time (e.g., if

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proceedings before the BAP were to turn out to be protracted for any reason, and if the resulting delay were long enough to cause significant prejudice to Debtor and other parties in interest). But, of course, all of the foregoing is subject to any appellate court's authority to grant a stay pending appeal, or other relief.

(b) Debtor's amended chapter 11 plan of reorganization & disclosure statement (dkt. 250, 251, 265 "Plan") & disclosure statement (251, "DS"), related Orders (dkt. 247, 255), Opposition of Yunuen Campos (dkt. 272), Proof of service of voting package (dkt. 281), Ballot summary/analysis (dkt. 282, 283), Debtor's reply (dkt. 284, 287) & supporting declarations (dkt. 285, 286), related Memorandum Decision (dkt. 121) and interim Order (dkt. 144) re assumption of Mediation Term Sheet (dkt.251, Ex.D, at PDF pp.54-56), Debtor's notice re same (dkt. 227), notice of appeal (dkt. 147), and claim objection Order (dkt. 277) (sustaining Debtor's objection to Ms. Campos' claim above dollar amount in Mediation Term Sheet)

The tentative ruling is to overrule Ms. Campos' objections, confirm the Plan and approve the Disclosure Statement on a final basis for the reasons set forth below.

(i) Impairment

The tentative ruling is to overrule Ms. Campos' objection that the Plan improperly characterizes her claim as unimpaired because Debtor argues persuasively that the whole concept of impairment does not apply to Ms. Campos' claim. The Mediation Term Sheet is an assumable executory contract that need not be classified under the Plan, and the fact that Debtor has opted to label the claim as if it were classified (as a precautionary measure) does not create voting rights where none exist under the Bankruptcy Code. See Reply (dkt. 284) p. 8:25-27.

Additionally and alternatively, the tentative ruling is that if Ms. Campos' claim were required to be classified, the Plan's separate classification of her claim is proper and her claim is not impaired for the reasons stated in Debtor's reply papers (dkt. 284, pp.9:3-14:18).

Additionally and alternatively, the tentative ruling is that even if Ms. Campos' claim is impaired, and even if the requirements of cramdown under 11 U.S.C. 1129(b) were to apply, the Plan can be confirmed because it meets all the requirements of 11 U.S.C. 1129(a) (as set forth below) and the Plan does not unfairly discriminate and is fair and equitable with respect to Ms.

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Campos' claim. The amended Plan provides for Ms. Campos to receive everything to which she is entitled to under the Mediation Term Sheet. See Reply (dkt. 284) pp.14:19-17:1, and Declaration of Samiel R. Biggs (dkt. 285) p.3:4-18.

(ii) Good faith

The tentative ruling is that Ms. Campos' arguments under the good faith test of 11 U.S.C. 1129(a)(3) are not persuasive.

(A) Legal standards

On the one hand, the statute is not a general inquiry into whether everything a debtor has ever done was in good faith. By its terms, section 1129(a)(3) only addresses whether a chapter 11 plan is "proposed" in good faith. *In re Garvin*, 922 F.3d 1031 (9th Cir. 2019).

On the other hand, if there were to be any abuse of the bankruptcy process, that could establish that the plan has not been proposed in good faith. See, e.g., *In re Sylmar Plaza*, 314 F.3d 1070, 1074 (9th Cir. 2002) (cited in *Garvin*, 922 F.3d 1031, 1036 n.3). Therefore this Court agrees with Ms. Campos to the following limited extent: Debtor's prepetition acts are relevant, as part of the "totality of circumstances" that this Court must consider in evaluating whether the Plan has been proposed in good faith. See Obj. (dkt. 272), pp. 12:5-14:14.

(B) The parties' long and contentious disputes do not establish a lack of good faith

The tentative ruling is that Ms. Campos is off the mark in asserting that a lack of good faith is established by the history of the parties' disputes. True, there was an underlying judgment for sexual battery (and attorney fees), and Debtor has vigorously defended himself including appeals and prior bankruptcy cases. But, for three reasons that is not persuasive evidence of any lack of good faith.

First, in general parties are entitled to fight vigorously to defend their position (provided they do not overstep the ethical and legal limitations, such as Rule 9011, Fed. R. Bankr. P.). There is no evidence that Debtor has overstepped those bounds.

Second, supposing for the sake of discussion that there were such evidence (which there is not), even a wrongdoer can "propose" a chapter 11 plan in "good faith." An attempt to pay debts over time, even (or especially) if those debts are based on wrongdoing, is the essence of a chapter 11

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bankruptcy case.

Third, Ms. Campos voluntarily entered into a settlement with Debtor, and Debtor's Plan simply proposes to enforce that settlement by the only means apparently available to him: the power to assume that settlement in bankruptcy (using his proposed Plan). It is legitimate to use 11 U.S.C. 365 to cure defaults that might not be curable outside of bankruptcy - e.g., the ability to cure payments that were due months ago. There is no lack of good faith in using the provisions of the Bankruptcy Code to hold Ms. Campos to the deal to which she agreed.

(C) Paying Mr. Fuller less than 100% of the purchase price for his claims, before knowing if this Court will confirm the proposed Plan, is not a lack of good faith

Ms. Campos has not established any lack of good faith in Debtor's decision to risk paying only part of what is required for him to purchase Mr. Fuller's claims (which he is purchasing so as to moot or satisfy the condition that Mr. Fuller's claims against Ms. Campos be resolved, as part of the parties' Mediation Term Sheet). See Obj. (dkt. 272), pp. 14:15-15:22. Debtor is entitled not to risk everything all at once, by paying even more to Mr. Fuller than he already has, prior to confirmation of the Plan.

In addition, as Debtor points out, there is no evidence of any attempt to "gerrymander" a consenting impaired class. If Ms. Campos were to be classified with other claims, Debtor still would have at least one requisite consenting impaired class, and thereby would satisfy 11 U.S.C. 1129(a)(10) and (b).

(iii) Feasibility

The tentative ruling is to reject Ms. Campos' argument that the Plan is not feasible, which is based on the risk that this Court's prior rulings might be reversed. See Obj. (dkt. 272), pp. 15:23-16:13. As she concedes, the issue is whether confirmation is "likely" to be followed by liquidation or the need for further financial reorganization (11 U.S.C. 1129(a)(10), emphasis added), and all that is required is for Debtor to show that the Plan has a "reasonable prospect of success and is workable." *Id.* (quoting *In re Pizza of Hawaii, Inc.*, 761 F.2d 1374, 1382 (9th Cir. 1985) (emphasis added, internal quotation marks omitted)).

The tentative ruling is that Debtor has met this test. This Court recognizes that reversal is always a possibility, and is very much aware that

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assumption of the Mediation Term Sheet involves interesting questions of law. But Debtor has established that confirmation of the Plan would not "likely" be followed by the need for liquidation or further financial reorganization, for the same reasons that this Court found persuasive in the Memorandum Decision (dkt. 121) and interim Order (dkt. 144) regarding assumption of the parties' Mediation Term Sheet. Ms. Campos has not rebutted that showing.

(iv) Assumption of the Mediation Term Sheet

Ms. Campos argues that five conditions to assumption have not been met. See Obj. (dkt. 272), pp. 16:14-17:9. Taking each one in turn:

(A) Life insurance. Section "7" of the Mediation Term Sheet (dkt.251, Ex.D, at PDF pp.55) requires that Debtor obtain life insurance in a dollar amount equal to 120% of the Settlement Sum (as defined therein). The Plan proposes that Debtor will obtain such insurance on the Effective Date or "as soon as practicable thereafter." See Plan, Ex.B to Art.I (dkt.251), Part "B" under "Class 2A," at PDF pp.43-44 (emphasis added).

The tentative ruling is that Debtor's proposal to obtain insurance after confirmation is insufficient. True, it is arguably within the requirement that he "promptly" cure defaults under 11 U.S.C. 365(b)(1)(A) (incorporated by 1123(b)(2)). But the tentative ruling is that, for "good faith," "feasibility," and (if applicable) the "fair and equitable" test (11 U.S.C. 1129(a)(3), (a)(11) & (b)), it is appropriate to require that Debtor obtain insurance prior to confirming the Plan. Accordingly, the tentative ruling is that entry of any confirmation order will be conditioned on Debtor filing a declaration with evidence of the required life insurance.

(B) Mutual release. Section "12" of the Mediation Term Sheet provides, "Except for obligations under the settlement agreement, the parties will trade mutual releases." See Mediation Term Sheet (dkt.251, Ex.D), at PDF p.56. Exhibit B to the Amended Plan contains Debtor's release of Ms. Campos (dkt. 250, Ex. B, Section B (Class 2A), at PDF pp.44-45). Ms. Campos does not raise any objection to the language of Debtor's proposed of release. But she appears to contemplate that she will not execute any mutual release.

The tentative ruling is that Ms. Campos need not execute any release because Debtor will be automatically released through the chapter 11 discharge and Debtor's Plan provides his release to Ms. Campos. In other

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words, if the Plan is confirmed and becomes effective, and if the confirmation order becomes a final order, then there will be mutual releases.

True, Debtor's release of Ms. Campos is not effective until her appeal(s) are finally resolved. But she cannot have it both ways.

If the order(s) confirming the Plan and approving assumption of the Mediation Term Sheet were to be reversed then Debtor would not qualify for a discharge under 11 U.S.C. 1141(d)(5), so it would be inappropriate for Ms. Campos to obtain a release from Debtor. Conversely, if that order becomes a final order then Debtor's release of Ms. Campos becomes effective. The tentative ruling is that Ms. Campos has not shown how this is improper, or any barrier to confirmation of the Plan.

(C) Mutual nondisparagement. Section "8" of the Mediation Term Sheet requires "reasonable, mutual non-disparagement" terms. Ms. Campos did not argue in connection with Debtor's motion to assume the Mediation Term Sheet that it is impossible to know what this means; nor is this Court aware of any reason to suppose that the parties intended anything other than standard non-disparagement terms.

The tentative ruling is that entry of any confirmation order will be conditioned on Debtor and Ms. Jayanna Howerton submitting reasonable proposed mutual non-disparagement terms. The tentative ruling is to provide Ms. Campos with a brief period in which to file and serve any objection she might have to such terms, and after any objection is resolved then those terms, like all the other terms of the Plan, will "bind" both Debtor and Ms. Campos pursuant to 11 U.S.C. 1141(a).

(D) Cure of prior payments. Section "1" of the Mediation Term Sheet (dkt.251, Ex.D, at PDF p.55) provides a schedule of payments, starting "upon dismissal of the debtor's [prior] Chapter 13 bankruptcy case ... following receipt of funds by the Chapter 13 trustee" and then on "the first calendar day" of every month following the dismissal of that prior bankruptcy case. A condition for assumption of any executory contract is to cure, or provide adequate assurance that the debtor in possession "will promptly cure," any payment defaults. 11 U.S.C. 365(b)(1)(A) (incorporated by 1123(b)(2)), 1101(1), 1107.

The tentative ruling is that Debtor is entitled to set off any outstanding amounts Ms. Campos received pre-petition or that Ms. Campos owes under the Fuller Judgment(s) against any outstanding payments owing under the Mediation Term Sheet, and that this plus his proposed schedule to cure the

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balance satisfies the requirement to "promptly cure" the default. The tentative ruling is that Debtor has provided evidence establishing adequate assurance of his ability to do those things. See Dkt. 251, Ex. J&K.

(E) Nondischargeability. Section "6" of the Mediation Term Sheet provides that Debtor's "obligation to pay the Settlement Sum shall remain non-dischargeable" and "[s]imilarly, the Judgment including all attorneys' fees and costs shall remain non-dischargeable." This appears to resolve any issues of nondischargeability. But Ms. Campos argues, without explanation or citation, that "[n]ondischargeability must be determined before confirmation." Ms. Campos appears to mean that the issues currently pending before Judge Robles (in proceedings in Debtor's previously-filed chapter 7 case) must be litigated to a final judgment. The tentative ruling is that this disregards the Mediation Term Sheet, which supersedes the need to litigate any other nondischargeability issues.

Alternatively, to the extent that there could be any ambiguity in the scope of the Mediation Term Sheet's nondischargeability provisions, the tentative ruling is that this Court need not and should not issue advisory rulings on the scope of those provisions. Put differently, confirmation of a proposed plan is different from the scope of any discharge, and this Court is not aware of any authority that rulings on the latter must precede the former. To the contrary, it is common for various issues such as claim objections, nondischargeability actions, and other matters to be litigated post-confirmation. So if those things were still relevant (which it appears they are not) they can be litigated post-confirmation.

(v) Debtor's Plan Modification (dkt. 265) does not require more disclosure and re-balloting

Debtor's proposed Modification notes several new developments since this Court's approval of Debtor's Disclosure Statement; but he argues that no changes to the Disclosure Statement are required, and re-balloting is not required. Debtor has served his proposed Modification on all creditors, and it lists the confirmation hearing date in the caption. See Modification (dkt. 265).

Only Ms. Campos has filed any response. She argues that a new disclosure statement and balloting are required due to a change in the terms by which Debtor agrees to purchase Mr. Fuller's judgments against Ms. Campos. See Obj. (dkt. 272), pp. 17:10-18:2. The tentative ruling is that Ms. Campos has not established any reason why re-service and re-balloting are

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required.

Under 11 U.S.C. 1125(a)(1), "adequate information" for purposes of Debtor's Disclosure Statement means information "of a kind, and in sufficient detail, as far as is reasonably practicable in light of the nature and history of the debtor ... that would enable [a] hypothetical investor of the relevant class to make an informed judgment about the plan ... [and] in determining whether a disclosure statement provides adequate information, the court shall consider the complexity of the case, the benefit of additional information to creditors and other parties in interest, and the cost of providing additional information." (Emphasis added.) Under Rule 3019(a) (Fed. R. Bankr. P.), if this Court finds, after notice to any trustee (*i.e.*, Debtor as debtor in possession), any committee (there is none), and "any other entity designated by the court" that "the proposed modification does not adversely change the treatment of the claim of any creditor ... who has not accepted in writing the modification, it shall be deemed accepted by all creditors ... who have previously accepted the plan." (Emphasis added.)

The tentative ruling is that Ms. Campos has not established that Debtor's minor changes in his deal with Mr. Fuller warrant more disclosure or re-balloting. Nor has she established any adverse change in the treatment of her claim (or, for that matter, any other claim).

(vi) Conclusion

For the foregoing reasons, the tentative ruling is (x) to overrule Ms. Campos' objections, (y) to approve the adequacy of the amended Disclosure Statement on a final basis, and (z) to confirm the amended Plan, subject to Debtor filing and serving on Ms. Campos his evidence of life insurance and proposed non-disparagement terms, after which Ms. Campos would have seven calendar days to file and serve her objections to those things. If any such objections are filed, this Court would determine whether further briefing and a hearing are required. Once all such issues are resolved, this Court would issue order(s) confirming the Plan and authorizing assumption of the Mediation Term Sheet (probably as a single order), subject only to any stay pending appeal as set forth at the start of this tentative ruling.

(2) Deadlines/dates. This case was filed on 6/30/20.

(a) Bar date: 10/2/20 (dkt. 39) (timely served, dkt. 52)

(b) Procedures order: dkt.4 (timely served, dkt.18).

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(c) Plan (dkt. 250)/Disclosure Statement* (dkt. 230): see above

(d) Post-confirmation status conference: 4/27/21 at 1:00 p.m.,
concurrent with other matters. No status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

John Martin Kennedy

Represented By

Sandford L. Frey

Dennette A Mulvaney

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Adv#: 2:20-01626 Campos v. Kennedy

#25.00 Cont'd Status Conference re: Complaint for Declaratory and Injunctive Relief re: Determination of Validity, Priority or Extent of Interest in Property fr. 12/1/20, 1/26/21

Docket 1

Tentative Ruling:

Tentative Ruling for 4/27/21:

Please see the tentative ruling for the main case status conference (Calendar No. 24, 4/27/21 at 1:00 p.m.).

Tentative Ruling for 1/26/21:

Please see the tentative ruling for the main case status conference (Calendar No. 33, 1/26/21 at 1:00 p.m.).

Tentative Ruling for 12/1/20:

Appearances required.

This Court has reviewed the parties' joint status report (adv.dkt. 4) and the other filed documents and records in this adversary proceeding.

(A) Current issues

Defendant (Debtor) suggests in the status report that this Court stay all proceedings in this adversary proceeding, because his forthcoming chapter 11 plan may moot some or all issues in this adversary proceeding. Plaintiff (Ms. Campos) suggested in the status report that such issues must be decided before any plan can be confirmed.

The parties are directed to clarify the following issues. (1) Does Plaintiff (Ms. Campos) assert that, under nonbankruptcy law, the assignment order created an absolute assignment in Debtor's accounts receivable ("A/R"), or a security interest, or both?

(2) Does she assert those things not only as to (a) A/R embodied in checks that had been issued prepetition (from medical insurers and Medicare

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prepetition), but also (b) A/R arising from services that had been performed prepetition, but as to which checks had not been issued as of the petition date (*i.e.*, as to which such an interest arguably had not attached as of the petition date), and also (c) A/R arising from services that had yet to be performed as of the petition date? Phrasing these last two issues differently, is Plaintiff asserting that, under nonbankruptcy law, 25% of any checks that had yet to be cut, and 25% of any A/R that had yet to be generated by Debtor's postpetition labor, belongs to Plaintiff, regardless of any interest of, for example, a different judgment creditor who obtained a judicial lien against the A/R and also claimed the same 25%?

(3) Under the Bankruptcy Code, is Plaintiff asserting that her alleged interest in each of the three types of A/R described above is superior to the interests of the bankruptcy estate, other creditors, and any exemptions that Debtor may assert in the A/R?

Depending on Plaintiff's responses, Defendant (Debtor) is directed to address how he can propose a chapter 11 plan without resolving the issues raised in this adversary proceeding. Does Defendant (Debtor) anticipate proposing payment terms (*e.g.*, payment over a time period consistent with the parties' Term Sheet) without resolving whether such payment is secured by the A/R, or whether Plaintiff (Ms. Campos) owns the A/R? Is it possible to confirm a plan that leaves such issues unresolved?

The tentative ruling is to direct the parties to address on a preliminary basis how the foregoing issues bear on whether or not to stay these proceedings. Then the tentative ruling is to continue this matter as set forth below, so that all of these issues can be better addressed after Debtor has proposed a chapter 11 plan.

(B) Standard requirements

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority

The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this Bankruptcy Court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether

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CONT... **John Martin Kennedy**

Chapter 11

the parties do consent, or have already expressly or impliedly consented. See generally *Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). See generally *In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation

[Intentionally omitted: it appears that mediation may be unproductive at this time.]

(3) Deadlines

This adversary proceeding has been pending since 9/23/20.

Joint Status Report: 1/19/21.

Continued status conference: 1/26/21 at 1:00 p.m.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

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CONT... John Martin Kennedy

Chapter 11

Debtor(s):

John Martin Kennedy

Represented By
Sandford L. Frey
Dennette A Mulvaney

Defendant(s):

John Martin Kennedy

Represented By
Sandford L. Frey

Plaintiff(s):

Yunuen Campos

Represented By
Lauren A Dean

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2:18-15559 R44 LENDING GROUP, LLC a Delaware Limited Liabilit Chapter 11

#1.00 Hrg re: Application for Compensation First and Final Application of Jeffrey S. Shinbrot, APLC, General Reorganization Counsel to Chapter 11 Debtor For Approval of Compensation in the Amount of \$126,735.00, and Reimbursement of Expenses In the Amount of \$1,214.99, for The Period May 15, 2018 Through March 31, 2021

Docket 242

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 2, 4/27/21 at 2:00 p.m.).

Party Information

Debtor(s):

R44 LENDING GROUP, LLC a

Represented By
Jeffrey S Shinbrot

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2:18-15559 R44 LENDING GROUP, LLC a Delaware Limited Liabilit

Chapter 11

#2.00 Cont'd Status Conference re: Chapter 11 Case
fr. 6/12/18, 6/26/18, 08/07/18, 10/9/18, 11/6/18,
12/11/18, 03/12/19, 3/26/19, 5/14/19, 6/11/19,
7/2/19, 7/30/19, 9/17/19, 11/12/19, 12/17/19,
3/10/20, 6/16/20, 8/18/20, 9/29/20, 11/10/20,
12/8/20, 2/16/21, 3/5/21

Docket 5

Tentative Ruling:

Tentative Ruling for 4/27/21:
Appearances are not required.

(1) Current issues

(a) Jeffrey S. Shinbrot, APLC First and Final Fee Application (dkt. 242, 243, "Application"), no opposition is on file

The tentative ruling is to conditionally grant the Application approving fees of \$126,735.00 and \$1,214.99 in expenses for a total award of \$127,949.99 and authorizing payment of \$106,749.49.

The tentative ruling is also that this order is conditioned on Applicant's filing of a declaration which complies with the requirements of LBR 2016-1(a) (1)(J) no later than **May 4, 2021**.

Proposed order: Debtor is directed to lodge a proposed order on the foregoing motion via LOU within 7 days after the hearing date and attach a copy of this tentative ruling, thereby adopting it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 5/15/18.

(a) Bar date: 8/14/18 dkt. 35 (timely served, dkt. 38).

(b) Procedures order: dkt. 3 (timely served, dkt.25)

(c) Plan/Disclosure Statement (dkt. 133, 134): plan confirmed (dkt.230).

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CONT...

R44 LENDING GROUP, LLC a Delaware Limited Liabilit

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(d) Post-Confirmation status conference: 6/15/21 at 1:00 p.m., *brief*
written status report due 6/1/21.

*Warning: special procedures apply (see order setting initial status
conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

R44 LENDING GROUP, LLC a

Represented By
Jeffrey S Shinbrot

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2:20-11333 Edmund Lincoln Anderson

Chapter 11

#3.00 Hrg re: Motion for relief from stay [RP]

US BANK TRUST NA
vs
DEBTOR

Docket 339

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 6, 4/27/21 at 2:00 p.m.).

Party Information

Debtor(s):

Edmund Lincoln Anderson

Represented By
Stella A Havkin

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2:20-11333 Edmund Lincoln Anderson

Chapter 11

#4.00 Cont'd hrg re: Third Default on Stipulation for use of
Cash Collateral and Adequate Protection
(Internal Revenue Service)
fr. 3/23/221

Docket 315

Tentative Ruling:

Tentative Ruling for 4/27/21:

Please see the tentative ruling for the status conference (Calendar No. 6,
4/27/21 at 2:00 p.m.).

Tentative Ruling for 3/23/21:

Please see the tentative ruling for the status conference (Calendar No. 8,
3/23/21 at 2:00 p.m.).

Party Information

Debtor(s):

Edmund Lincoln Anderson

Represented By
Stella A Havkin

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2:20-11333 Edmund Lincoln Anderson

Chapter 11

#5.00 Cont'd Hrg re: Debtor's Motion for Order Disallowing Claim Number 18
Pursuant to FRBP 3003(c)(2), 11 U.S.C. Section 502(b)(9)
fr. 03/02/21, 3/23/21

Docket 292

Tentative Ruling:

Tentative Ruling for 4/27/21:

Please see the tentative ruling for the status conference (Calendar No. 6, 4/27/21 at 2:00 p.m.).

Tentative Ruling for 3/23/21:

Please see the tentative ruling for the status conference (Calendar No. 8, 3/23/21 at 2:00 p.m.).

Tentative Ruling for 3/2/21:

Please see the tentative ruling for the status conference (Calendar No. 2, 3/2/21 at 2:00 p.m.).

Party Information

Debtor(s):

Edmund Lincoln Anderson

Represented By
Stella A Havkin

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2:20-11333 Edmund Lincoln Anderson

Chapter 11

#6.00 Cont'd Status Conference re: Chapter 11 Case
fr. 3/3/20, 3/10/20, 4/7/20, 4/21/20, 6/2/20, 7/14/20,
7/28/20, 8/18/20, 9/1/20, 10/6/20, 10/27/20, 12/1/20,
1/5/21, 2/9/21, 03/02/21, 3/23/21

Docket 1

Tentative Ruling:

Tentative Ruling for 4/27/21:

Appearances required by counsel for the debtor.

(1) Current issues

(a) Debtor's Motion/Objection to Claim 18 (dkt. 292, 294, 297);
Claimant's Opposition (dkt. 313); Debtor's reply (dkt.320)

At the 3/23/21 hearing, this Court continued the hearing on this matter so that Debtor could file a motion under FRBP 9019 to approve the settlement reached by the parties. That motion has been filed. Dkt. 336. The tentative ruling is to take this matter off calendar pending the resolution of the motion under FRBP 9019.

(b) Cash collateral: declaration re 3d default (the "Default Decl.," dkt.315), Debtor's response (dkt.317), order setting hearing (dkt.318)

At the 3/23/21 hearing, this Court continued the hearing on this matter to allow the parties to negotiate and agree upon a budget for Debtor to repair and/or improve the properties he intends to sell for the benefit of the estate and for Debtor to file a motion and notice of motion under 363(b) regarding this use of cash collateral. As of the date this tentative ruling was prepared, no motion under 363(b) has been filed. There is no tentative ruling, but the parties should be prepared to address whether they have reached a consensus on a proposed budget for Debtor's use of cash collateral.

(c) U.S. Bank Trust NA as Trustee of the Tiki Series III Trust's Declaration of Default Under Adequate Protection Order; Request for Entry of Order Granting Relief from Stay (dkt. 339), Debtor's Opposition (dkt. 342),

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CONT... **Edmund Lincoln Anderson**

Chapter 11

Order Setting the Matter for Hearing (dkt. 343).

On 4/12/21, U.S. Bank Trust National Association, as Trustee of the Tiki Series III Trust ("Tiki Series III Trust"), filed a declaration regarding Debtor's default under adequate protection order (dkt. 339). In the declaration, Tiki Series III Trust alleges that Debtor has failed to make any payments under the adequate protection order, is \$21,108.70 in arrears, and the remaining balance of the loan is \$447,009.08. Debtor filed an opposition alleging that he has entered a into an \$800,000 listing agreement for the sale of the subject property which provides the Tiki Series III Trust with an adequate equity cushion. Dkt. 342. This Court set the matter for hearing. Dkt. 343. There is no tentative ruling, but the parties should be prepared to address the issues raised in their filed papers.

(d) Monthly Operating Reports ("MORs"): continuing compliance stip. (dkt. 232); order approving same (dkt. 234); lack of breakdown of gross revenues, expenses, and net revenues in past MORs (reviewed at hearing on 2/9/21, tentative ruling thereon, and thereafter); lack of MOR for March, 2021

Debtor is directed to address why Debtor continues to be out of compliance with MORs, and what action this Court should take.

(2) Deadlines/dates. This case was filed on 2/6/20.

(a) Bar date: 5/1/20 (dkt. 50; timely served, dkt. 55).

(b) Procedures order: dkt. 7 (timely served, dkt.8)

(c) Plan/Disclosure Statement (dkt. 251, 250)*: TBD.

(d) Continued status conference: 6/1/21 at 2:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Edmund Lincoln Anderson

Represented By
Stella A Havkin

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2:19-10552 Attitude Marketing, Inc.

Chapter 7

#7.00 Cont'd hrg re: Trustee's Objection to Amended
Claim of Wyndham Vacation Resorts, Inc.
fr 3/23/21, 4/6/21

Docket 191

***** VACATED *** REASON: Continued to 5/11/21 at 2:00 p.m. per
stipulation (dkt. 215) and order thereon**

Tentative Ruling:

Party Information

Debtor(s):

Attitude Marketing, Inc.

Represented By
James A Dumas Jr
Christian T Kim

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
Christian T Kim
James A Dumas Jr

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2:16-21559 David MacMillan

Chapter 7

#8.00 Cont'd hrg re: Trustee's Objection to Amended Claim of Wyndham
Vacation Resorts, Inc.
fr 3/23/21, 4/6/21

Docket 522

***** VACATED *** REASON: Continued to 5/11/21 at 2:00 p.m. per
stipulation (dkt. 541) and order thereon**

Tentative Ruling:

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr
Christian T Kim

Peter J Mastan (TR)

Pro Se

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2:18-12429 Dana Hollister

Chapter 11

#9.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 10/1/19, 11/12/19, 11/21/19, 01/14/20, 03/03/20,
04/07/20, 5/19/20, 7/14/20, 7/28/20, 8/4/20, 9/15/20,
10/27/20, 01/26/21

BOBS, LLC
vs
DEBTOR

Docket 936

***** VACATED *** REASON: Continue to 6/1/21 at 2:00 p.m. pursuant to
stipulation (dkt. 1402) and order thereon.**

Tentative Ruling:

Party Information

Debtor(s):

Dana Hollister

Represented By
David A Tilem
Mark A Kressel
Alan M Insul

Movant(s):

Bobs, LLC

Represented By
David I Brownstein
Gerrick Warrington

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2:18-12429 Dana Hollister

Chapter 11

#10.00 Cont'd Status Conference re: Chapter 11 Case
fr. 3/9/18, 3/20/18, 3/21/18, 4/17/18, 5/3/18, 5/7/18,
6/12/18, 6/22/18, 7/16/18, 8/3/18, 9/4/18, 11/6/18,
01/15/19, 1/29/19, 2/26/19, 3/26/19, 4/16/19;
04/29/19, 05/21/19, 5/28/19, 6/18/19, 7/2/19; 08/06/19,
10/15/19, 11/12/19, 11/21/19, 01/14/20, 3/3/20, 3/10/20,
04/07/20, 5/19/20, 6/16/20, 6/30/20, 7/14/20, 7/28/20,
8/4/20, 09/15/20, 10/27/20, 12/08/20, 1/21/21, 02/25/21, 3/23/21

Docket 1

Tentative Ruling:

Tentative Ruling for 4/27/21:

Appearances are not required on 4/27/21.

(1) Current issues

(a) January 21, 2021 Oral Order that Ms. Hollister Respond to Concerns Regarding Ordinary Course Transactions, Debtor's Response (dkt. 1378).

At the 3/23/21 hearing, this Court took the matter under submission. This Court has now reviewed Debtor's response.

Debtor's response has not alleviated this Court's concerns that Debtor's actions appear to have been out of the ordinary course of her businesses, both disclosed and undisclosed. In addition, Debtor's disclosures should have been more complete and should have been made sooner.

First, her disclosures do not appear to be supported by evidence. For example, Debtor stated in her status report that she "completed significant renovations to the guest rooms at The Paramour." Dkt. 1320, p. 4:19–20. Then, in her written response to this Court's oral order, Debtor said that the work was better characterized as "repairs, maintenance, redecorating and refreshing" and she provides the example of installing hand rails in response to a visitor suffering a slip and fall injury. Dkt. 1378, p. 12:1–8.

While Debtor's additional latest information - recharacterizing "significant renovations" as only "repairs, maintenance, redecorating and refreshing" - might be a step in the right direction if that is really true, these

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Dana Hollister

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disclosures remain incomplete. Debtor has submitted no invoices, work orders, contracts, or similar documentation to establish the precise amount of funds used and that the funds were used for the stated purpose.

Second, Debtor appears to be "cherry picking" the information that she does disclose to the Court. For example, Debtor alleges that she has been consigning items for her business involving the purchase and sale of vintage and antique goods since 2017, before she filed her petition. Dkt. 1378, p. 10:22–23. Debtor then states that "[i]n the last five months of 2020, costs of goods consigned was about \$11,500 and sales were about \$47,000." Dkt. 1378, p. 10:27–28 (emphasis added). While the latest assertions give the impression that this business has operated at a profit, these figures do not provide a complete picture for whatever longer periods Debtor has been operating this line of business. What is more, these disclosures are also incomplete because Debtor provided no evidence to support the numbers she provides in her declaration.

Finally, Debtor asserts that she had never ceased engaging in the following business activities "(1) buying and selling antiques; (2) clothing and consulting; (3) design; (4) manufacturing custom pillows" Dkt. 1378, p. 2:3–6. In her declaration, Debtor clarifies that "[a]ll of these activities are [her] business and have been [her] business for many years. At no time since the 1990's [has she] ever stopped consulting about clothing, buying and selling vintage items and antiques . . . designing other items and manufacturing custom pillows [sic] covers." Dkt. 1378, p. 8:19–23 (emphasis in original). If Debtor has in fact been conducting these lines of business uninterrupted since the 1990's, these businesses should have appeared on Debtor's bankruptcy Schedule I and/or her Statement of Financial Affairs ("SOFA") and/or her Statement of Monthly Income. But they do not.

Debtor's bankruptcy Schedule I lists her monthly net income derived from rental properties and from operating a business as \$8,000. But that Schedule I fails to provide any statements for each property and/or business showing gross receipts, ordinary and necessary business expenses, and the total monthly net income, as required by the instructions on that form, line 8a. Dkt. 1, PDF p. 78.

In her SOFA, Debtor listed the businesses with which she had a connection and the nature of those businesses. The Paramour was described as a "B&B, event center," and The Paramour Estate, Inc. was described as "Not doing business, no assets." Dkt. 1, PDF pp. 89–90. Not

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Chapter 11

one of the businesses was described as involving the purchase and sale of antiques, clothing and consulting, design, or the manufacture of custom pillow covers. Dkt. 1, PDF pp. 89-90.

Finally, Debtor's Statement of Monthly Income identifies three sources of income derived from the operation of a business, profession, or farm: Bridge Tavern LLC - Distribution, GJV Inc. - Distributions, and The Paramour - 1923 Micheltorena. Dkt. 81, p. 4. The first and second businesses were described as restaurants in Debtor's Statement of Financial Affairs, the third was described as a B&B, event center. Dkt. 1, PDF p. 89.

For the reasons set forth above, the tentative ruling is that the Debtor's disclosures have not adequately addressed this Court's concerns regarding Debtor's business activities taken out of the ordinary course of business without prior Court authorization. Nevertheless, at present, this Court does not find that taking further action *sua sponte*, such as appointing a trustee, will provide sufficiently clear benefits to outweigh the costs to the estate, its creditors, and Debtor. Among other things, this Court is reluctant to supplant Debtor as the debtor in possession, and thereby potentially affect her pending appeal.

In sum, the tentative ruling is that this Court neither approves the expenditures under 11 U.S.C. 363(c), nor rules that such expenditures are "ordinary course" under 11 U.S.C. 363(b), and Debtor therefore runs the risk of adverse consequences in future based on (x) her lack of disclosures, (y) her inconsistent disclosures, and (z) any transactions that should have been disclosed, and/or for which approval should have been sought. This Court, or any party in interest, may revisit these issues in the future.

(2) Deadlines/dates. This case was filed on 3/6/18.

(a) Bar date: 8/24/18 (dkt. 367, timely served per dkt. 383)

(b) Plan/Disclosure Statement: TBD. See the **revised** "Procedures of Judge Bason" (available at www.cacb.uscourts.gov) (search for "Chapter 11: Plan").

(c) Continued status conference: 6/1/21 at 2:00 p.m. No written status report required.

(d) Limited Notice: A "Core Service List" has been established (see dkt.97, p.3:4-17, dkt.195), as modified by any updates (contact Debtor for latest list).

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If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED (for principal issues, see dkt. 238, 239, 528, 547, 557, 1330, 1382-83)]

Party Information

Debtor(s):

Dana Hollister

Represented By
David A Tilem
Mark A Kressel
Alan M Insul

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2:19-18316 Ashley Susan Aarons

Chapter 11

#11.00 Cont'd Status Conference re: Chapter 11 Case
fr. 8/20/19, 9/24/19, 10/4/19, 10/15/19, 10/29/19,
11/12/19, 12/10/19, 1/14/20, 03/31/20, 4/7/20,
4/21/20, 5/5/20, 6/16/20, 6/30/20, 8/4/20, 9/29/20,
10/14/20, 10/22/20, 11/12/20, 12/8/20, 12/22/20,
1/5/21, 1/26/21, 2/4/21, 2/11/21

Docket 1

Tentative Ruling:

Tentative Ruling for 4/27/21:

Continue as set forth below. Appearances are not required on 4/27/21.

(1) Current issues

This Court has no issues to raise *sua sponte* at this time.

(2) Deadlines/dates

This case was filed on 7/17/19, and Debtor's plan was confirmed on 2/11/21 (dkt. 390). The tentative ruling is to set a further continued Status Conference for 5/4/21 at 2:00 p.m., concurrent with other matters. No written status report required.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

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CONT... Ashley Susan Aarons

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Party Information

Debtor(s):

Ashley Susan Aarons

Represented By
James C Bastian Jr
Rika Kido

Trustee(s):

John-Patrick McGinnis Fritz (TR)

Pro Se

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2:18-24302 GL Master Inc

Chapter 7

#12.00 Second Cont'd Evidentiary Hrg re: Order to Show Cause re: Civil Contempt and Directing (i) Debtor, (ii) Freda Wang, (iii) Thomas Polis, (iv) Lynn Chao, (v) The Law Offices of Lynn Chao to Appear and Show Cause Why This Court Should Not Find Them in Contempt and Impose Sanctions fr. 8/19/20, 9/17/20, 11/3/20, 12/1/20, 12/22/20, 1/5/21, 1/26/21

Docket 173

Tentative Ruling:

Tentative Ruling for 4/27/21:

Continue to 5/11/21 at 2:00 p.m. for issuance of a Scheduling Order on the outstanding issues. Appearances are not required on 4/27/21.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

GL Master Inc

Represented By
Thomas J Polis

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 27, 2021

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Trustee(s):

Edward M Wolkowitz (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 27, 2021

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2:18-24302 GL Master Inc

Chapter 7

#13.00 Cont'd Order to Show Cause re: Civil Contempt Against
Young Young Food LLC, and For Sanctions
fr. 10/27/20, 12/1/20, 12/22/20, 1/5/21, 1/26/21

Docket 213

Tentative Ruling:

Tentative Ruling for 4/27/21:

Appearances required.

(1) Current issues

(a) Continued hearing on Order to Show Cause re contempt and sanctions against Young Young Food, LLC ("YYF") (dkt. 213), Contempt/Sanctions Order (dkt. 237)

The tentative ruling is to find YYF in contempt of this Court's Contempt/Sanctions Order and impose coercive sanctions in an amount to be determined at the hearing, for the reasons set forth below.

(i) Alleged Employees' request for production of documents and examination of YYF's person most knowledgeable ("PMK")

On 7/2/20, the Alleged Employees filed a "Motion for Order Pursuant to Rule 2004 for the Production of Documents and Remote Oral Examination of the Person Most Knowledgeable of Young Young Food LLC" (dkt. 146, "2004 Motion"), which this Court granted (dkt. 160, "2004 Order").

(ii) Alleged Employees' request for issuance of order to show cause re contempt and sanctions

On 9/4/20, the Alleged Employees filed a "Motion ... for Order to Show Cause re: Civil Contempt against Young Young Food LLC and for Sanctions" (dkt. 202, the "Motion for OSC") based on YYF's alleged lack of compliance with the 2004 Order. YYF did not file a response.

(iii) Contempt/Sanctions proceedings

On 9/16/20, this Court issued its Order to Show Cause directing YYF to appear and show cause why it should not be held in contempt and sanctioned for the reasons set forth in the Motion for OSC (dkt. 213, the "OSC"). YYF filed responses to the OSC (dkt. 225, 226, 227) and the Alleged Employees filed reply papers (dkt. 228, 230).

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At the hearing on 10/27/20, this Court found YYF in contempt of the 2004 Order and granted the Alleged Employees' request for compensatory and coercive sanctions, subject to briefing and prove up hearings. On October 29, 2020, this Court entered its "Order re: Motion by Unsecured Creditors Wei Dong, Wenrui Wang, and Zongsui Hu for Order to Show Cause re: Civil Contempt Against Young Young Food, LLC and for Sanctions" (dkt. 237, the "Contempt/Sanctions Order").

The Contempt/Sanctions Order, among other things:

- (A) found YYF in contempt of this Court's 2004 Order,
- (B) granted the Alleged Employees' request for compensatory sanctions and set a briefing schedule for the submission of evidence and reply papers,
- (C) granted the Alleged Employees' request for coercive sanctions and ruled that YYF **"shall be liable for \$500 in daily sanctions for each day after November 20, 2020, at 5:00 p.m., that it fails to produce documents as previously ordered"** (see, Dkt. 160, pp. 4-5, for list of documents);
- (D) set a deadline of October 30, 2020 for the Alleged Employees to serve "no more than twenty (20) written interrogatories" on counsel for YYF (in lieu of a 2004 examination of YYF's PMK) and directed YYF to file responses by November 25, 2020 at noon. [Dkt. 237, p.2:7-19] (emphasis added).

(iv) Compensatory Sanctions

On 11/5/20, the Alleged Employees filed evidence in support of their request for compensatory sanctions (dkt. 241). YYF did not file an opposition. Following the hearing on December 1, 2020, this Court entered an interim order awarding the Alleged Employees compensatory sanctions against YYF in the amount of \$12,100 in fees and \$59.85 in costs, for a total award of \$12,159.58 (dkt. 253).

The Alleged Employees should be prepared to address whether they intend to seek additional compensatory damages arising from fees and costs incurred since the 12/1/21 hearing.

(v) Coercive Sanctions

This Court has reviewed the Alleged Employees' status report (dkt. 247), YYF's response (dkt. 263), and the Alleged Employees' reply (dkt. 264).

(A) Examination by written discovery

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The Alleged Employees state that YYF timely responded to the 20 interrogatories they propounded on 11/25/20 (see dkt. 247, Ex. 1 & 2), but argue that YYF's responses were improperly self-limited to one or two employees who were largely ignorant of YYF's operations. *Id.* p. 2:5-20. YYF appears to concede that its responses are sparse, but contends that it did the best it could to respond because it "is essentially no longer in business due to the COVID-19 pandemic" and its only remaining employee is Sam Song, who is a warehouseman who "does not have the financial bookkeeping knowledge for YYF, thus he was of no help to find the financial information requested." Dkt. 263, p. 3:4-5, 9-12.

The tentative ruling is that the responses to the Alleged Employees' interrogatories are woefully insufficient and fail to demonstrate a reasonable attempt to comply with this Court's Contempt/Sanctions Order. YYF fails to describe in detail any efforts it made to obtain responsive information or documents from its current and former managing members (Zhongquan Xiao and Zhanghai Zhang) or any of its current or former officers, former employees and/or any other person(s) with information or documents relevant to YYF's business operations and finances. Similarly, YYF states that it does not currently know how to locate or contact its former bookkeeper, Ms. Deeta Ye (dkt. 247, Ex. 2, p. 3:27-28), but fails to provide any information about its alleged attempts to locate her.

Furthermore, YYF's assertions that "in late March/early April 2020, YYF laid off/terminated essentially all of its employees other than Warehouse Manager, Sam Song" and "is essentially no longer in business due to the COVID-19 pandemic" (dkt. 247, Ex.2, p. 3:2-5 & dkt. 263, p. 3:4-5) appears to be directly at odds with (i) this Court's findings, based on the uncontested testimony at the trial regarding the related discovery from Debtor, that YYF and/or its affiliate SH E. Young Young Food, Inc. has been paying very substantial dollar amounts to Mr. Polis to fight against discovery from Debtor and ChaoLaw (see dkt. 276, pp. 18-18-27 and 31:2-12) and (ii) the Alleged Employees' assertion (if true) that as recently as 8/10/20 YYF filed an updated statement of information with the California Secretary of State. Dkt. 247, p. 3:14-19.

The tentative ruling is that, in this context, YYF's excuses fail to address the key issues and therefore are insufficient.

(B) Production of documents

The Alleged Employees state that YYF timely produced documents by

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the 11/20/20 deadline (dkt. 247, Ex.1), but argue that the document production was intentionally and grossly deficient. *Id.* pp.2:23-4:22. YYF counters that it produced more than 1,000 pages of documents and that, because it is no longer operating and does not have any active employees with knowledge of its financial background, its production "is truly the best YYF and its very limited resources could produce." Dkt. 263, p.3, para. "(7)," "(8)," "(9)" and "(10)".

For the same reasons discussed above with respect to YYF's responses to the Alleged Employees' interrogatories, and the additional reasons set forth in the Alleged Employees' status report (dkt. 237, pp. 2:23-4:20), the tentative ruling is that YYF's document production is not sufficient and fails to carry its burden to demonstrate a reasonable attempt to comply with this Court's Contempt/Sanctions Order. Most notably, YYF has not provided any discussion of any efforts it undertook to reach out to current and former members, officers, employees and/or any other person(s) who might have information or documents responsive to the Alleged Employees' document request.

(vi) Further proceedings re production of missing documents and supplemental responses to interrogatories

If view of this above tentative rulings finding YYF to be in contempt of this Court's Contempt/Sanctions Order, the parties should be prepared to discuss the following issues.

(A) Appropriate amount of coercive sanctions

As set forth in this Court's Contempt/Sanctions Order, this Court will impose coercive sanctions starting at **\$500** per day against YYF for its failure to produce all documents responsive to the 2004 Order and the Alleged Employees' interrogatories. But the parties should be prepared to address what start date to impose for such sanctions, and the timing and mechanisms of any adjustment to such sanctions.

As this Court previously has observed regarding Debtor, there might be futility in assessing sanctions against an entity that claims not to have any assets (even if it, or someone acting through it, has been paying substantial dollar amounts to fight discovery). But such sanctions might turn out to be collectible, either from the contemnor(s) or from persons who orchestrated the non-compliance with this Court's prior orders.

In any event, possible dates for the daily sanctions include: (x) every day from 11/21/20 (the day following YYF's 11/20/20 deadline to produce all

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documents), (y) starting then, but suspended for some periods based on the history of this case including this Court's order that the parties attend mediation, or (z) after the conclusion of the meditation.

(B) Procedures for establishing compliance

YYF should be prepared to address how it proposes that it will be able, in future, to show full compliance with the 2004 Order. In view of this Court's tentative findings of fact and conclusions of law above, and as this Court has explained in connection with Debtor's parallel situation, it may be difficult for YYF to establish that it has fully complied with the 2004 Order.

(2) Deadlines/dates. This case was filed on 12/7/18.

(a) Continued status conference: 5/11/21 at 1:00 p.m. No written status report required.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 1/26/21:

Appearances required.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's

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COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 1/5/21:

Continue to 1/26/21 at 2:00 p.m. for issuance of a Memorandum Decision on the related matters taken under submission (see calendar no.1, 1/5/21 at 2:00 p.m.). Appearances are not required on 1/5/21.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 12/22/20:

This Court is very troubled by the reported state of discovery (*see, e.g.*, Alleged Employees' Reply, dkt. 264, filed 12/18/20). But this Court believes that the issues can be more productively addressed once this Court issues its Memorandum Decision on the related discovery disputes involving, *inter alia*, Debtor and its law firm, the Law Offices of Lynn Chao. Accordingly, the tentative ruling is to continue this hearing to 1/5/21 at 2:00 p.m. Appearances are not required on 12/22/20.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

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are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

**Tentative Ruling for 12/1/20:
Appearances required.**

Current issues

(a) Contempt order (dkt. 237)

(i) Compensatory sanctions

This Court has reviewed the Alleged Employees' time records (dkt. 241). As of the preparation of this tentative ruling, YYF has not filed an opposition.

The tentative ruling is to award fees in the amount of \$12,100 and costs in the amount of \$59.85, for a total compensatory sanction against YYF in the amount of **\$12,159.58**, payable to the Alleged Employees as compensation for the fees and costs they were forced to incur to compel compliance.

(ii) Status of compliance

The parties should be prepared to advise this Court on whether (x) coercive sanctions are appropriate (*i.e.*, whether Young failed to produce all responsive documents by 11/20/20 at 5:00 p.m.); and (y) Young responded to the Alleged Employees' written interrogatories by the 11/25/20 at noon deadline.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are

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appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 10/27/20:
Appearances required.

Current issues

(1) Alleged employees' motion for issuance of order directing Young Young Food LLC ("YYF") to appear for 2004 examination and production of documents (dkt. 146, "2004 Motion"); Order granting 2004 Motion (dkt. 160, "2004 Order"); Alleged employees' motion for issuance of OSC re contempt (dkt. 202, "Motion for OSC"), Order setting hearing on Motion for OSC (dkt. 215, the "OSC"), YYF's opposition papers (dkt. 225, 226, 227), Alleged employees' reply papers (dkt. 228, 230)

The tentative ruling is to find YYF in contempt of court and impose sanctions in an amount to be determined at the hearing and subsequent proceedings, as set forth below.

(a) The alleged employees have made a sufficient showing that YYF violated this Court's 2004 Order and YYF has not responded with argument or evidence establishing that it was impossible to comply

The tentative ruling is to overrule YYF's opposition, grant the Sanctions Motion for the reasons stated in the Alleged Employees' reply papers (dkt. 228, 230), and find that YYF is in contempt of the 2004 Order.

In addition and alternatively, the tentative ruling is that on the merits this Court is not persuaded by YYF's arguments that the (i) 2004 Order is overbroad and (ii) seeks discovery that could and should have been sought in a pending nonbankruptcy proceeding for the same reasons stated in this Court's prior rulings and orders addressing those arguments. See Order (dkt. 173) at PDF p.12, para. "(b)"; Order (dkt. 117) at PDF p.5, para. "(c)"; and Order (dkt. 101) at PDF pp.6-7, para. "(3)."

(b) Sanctions

(i) Compensatory

The tentative ruling is to grant the Alleged Employees' request for

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compensatory sanctions to reimburse them for their costs incurred preparing and filing the Sanctions Motion, responding to the OSC, and appearing at this hearing. The tentative ruling is to set **a deadline of 11/5/20** for the Alleged Employees to file and serve a declaration setting forth their time records and expenses, **11/13/20 for any opposition, 11/19/20 for any reply, and a hearing on 12/1/20 at 2:00 p.m.**

(ii) Coercive

The tentative ruling is to award coercive sanctions, in an escalating dollar amount to be addressed at the hearing.

(iii) Examination by written discovery

The tentative ruling is to grant the Alleged Employees' request to obtain written discovery of YYF, *in lieu* of any in person examination out of concerns presented by the risks of COVID-19, by propounding 20 interrogatories on YYF, without prejudice to any follow-up discovery. The parties should be prepared to address what deadlines, if any, this Court should set for serving and responding to the Alleged Employees' interrogatories (or if this Court should defer to the parties to act within the usual procedures).

Proposed order: Alleged Employees are directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, all appearances are telephonic via CourtCall at (888) 882-6878.

Party Information

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Chapter 7

Debtor(s):

GL Master Inc

Represented By
Thomas J Polis

Trustee(s):

Edward M Wolkowitz (TR)

Pro Se

**United States Bankruptcy Court
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2:19-23664 Liat Talasazan

Chapter 7

#14.00 Cont'd hrg re: Emergency Motion for Order (1) Directing the United States Marshal or Other Appropriate Law Enforcement Agency to Evict the Debtor, Her Parents and/or Any and All Other Occupants From the Real Property Located at 636 N. Laurel Ave., Los Angeles, CA 90048; and (2) Issuing an Order to Show Cause Re Contempt
fr. 10/27/20, 12/1/20, 12/22/20, 2/9/21, 03/02/21, 3/23/21, 4/6/21

Docket 318

Tentative Ruling:

Tentative Ruling for 4/27/21:

Please see the tentative ruling for the status conference (Calendar No. 16, 4/27/21 at 2:00 p.m.).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Liat Talasazan

Represented By
Giovanni Orantes
Luis A Solorzano

Movant(s):

Caroline Renee Djang (TR)

Pro Se

Trustee(s):

Caroline Renee Djang (TR)

Pro Se

**United States Bankruptcy Court
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2:19-23664 Liat Talasazan

Chapter 7

#15.00 Cont'd hrg re: Motion for Turnover of Property of the Estate
Pursuant to 11 U.S.C. § 542 35th Street Properties
fr 3/23/21, 4/6/21

Docket 543

Tentative Ruling:

Tentative Ruling for 4/27/21:

Please see the tentative ruling for the status conference (Calendar No. 16,
4/27/21 at 2:00 p.m.).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Liat Talasazan

Represented By
Giovanni Orantes
Luis A Solorzano

Trustee(s):

Caroline Renee Djang (TR)

Represented By
David Wood

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2:19-23664 Liat Talasazan

Chapter 7

#16.00 Cont'd Status Conference re: Chapter 7 Case
fr. 1/28/20, 2/18/20, 3/3/20, 3/10/20, 03/31/20,
4/7/20, 5/12/20, 5/19/20, 6/2/20, 6/16/20, 7/28/20,
8/18/20, 9/1/20, 9/15/20, 9/29/20, 10/27/20, 12/1/20,
12/22/20, 2/9/21, 03/02/21, 3/23/21, 4/6/21

Docket 49

Tentative Ruling:

Tentative Ruling for 4/27/21:

Appearances required.

(1) Current issues

(a) Subchapter V Trustee's motion re eviction/contempt (dkt. 318, 319, the "Eviction/OSC Motion"), 319, Debtor & Orantes declarations (dkt. 320, 322), Orantes declaration (dkt. 322), Order shortenting time (dkt. 323) and POS (dkt. 326), Trustee declaration (dkt. 328), Debtor & Orantes declarations & opposition (dkt. 329, 330, 331), Trustee's declaration re compensatory sanctions (dkt. 335), order imposing compensatory sanctions (dkt. 400); further declarations re compensatory sanctions (dkt.573, 574), Debtor's response (dkt. 585)

The tentative ruling is to award the Trustee additional compensatory sanctions in the amount of **\$3,070.40** (\$2,295.40 for 1-800-Got-Junk and \$775 for Bailey's Property Maintenance = \$3,070.40) for disposal of personal property and coercive sanctions of **\$3,375** (15 days at \$225/day = \$3,375) for a total of **\$6,445.40**. The parties should be prepared to address what deadline(s) this Court should impose for Debtor to pay the additional sanctions.

(b) Subchapter V Trustee's Motion for turnover of 35th Street Properties, accounting re Jefferson property, etc. (dkt. 543, 544), Debtor's response (dkt. 562), Oxygen's joinder (dkt. 568), Subchapter V Trustee's reply (dkt. 569, 570)

The parties are directed to update this Court on the status of this motion and address whether any additional relief is appropriate.

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Chapter 7

(c) Tremblay's motion for relief from stay (dkt. 583)

In view of the Trustee's pending sale motion (dkt. 588-590), the tentative ruling is to continue this matter to **5/11/21 at 11:00 a.m.**, concurrent with the sale hearing.

Proposed orders: The Trustee is directed to lodge proposed orders reflecting any other disposition of the above items, beyond mere continuance, via LOU within 7 days after the hearing date, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 11/20/19, converted from chapter 13 to chapter 11 on 1/2/20, designated by Debtor as a Subchapter V case on 3/2/20 (dkt.128), and converted to chapter 7 on 12/1/20 (dkt. 412).

(a) Continued status conference: 5/4/21 at 2:00 p.m., concurrent with other matters. No written status report required.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED (see Memorialization of Tentative Rulings, dkt.208 (filed 5/19/20) and dkt.303 (filed 9/21/20). See also Order Denying Motion for Stay (dkt.441, as amended by dkt.442).]

Party Information

Debtor(s):

Liat Talasazan

Represented By

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Liat Talasazan

Chapter 7

Giovanni Orantes
Luis A Solorzano

Trustee(s):

Caroline Renee Djang (TR)

Pro Se

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2:00 PM

2:19-24048 110 West Properties, LLC

Chapter 11

#17.00 Cont'd hrg re: Application to Employ and
Compensate BBG, Inc. as Appraiser
fr. 1/26/21, 2/9/21, 03/02/21, 4/6/21

Docket 187

Tentative Ruling:

Tentative Ruling for 4/27/21:

Please see the tentative ruling for the status conference (Calendar No. 21,
4/27/21 at 2:00 p.m.).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

110 West Properties, LLC

Represented By
Gregory K Jones
Jeffrey Huron
Danielle N Rushing

Movant(s):

110 West Properties, LLC

Represented By
Gregory K Jones
Jeffrey Huron
Danielle N Rushing

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2:19-24048 110 West Properties, LLC

Chapter 11

#18.00 Cont'd hrg re: Motion for Entry of an Order Authorizing the Debtor to Retain and Compensate Professionals Utilized by the Debtor in Ordinary Course of Business
fr. 1/26/21, 2/9/21, 03/02/21, 4/6/21

Docket 186

Tentative Ruling:

Tentative Ruling for 4/27/21:

Please see the tentative ruling for the status conference (Calendar No. 21, 4/27/21 at 2:00 p.m.).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

110 West Properties, LLC

Represented By
Gregory K Jones
Jeffrey Huron
Danielle N Rushing

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 27, 2021

Hearing Room 1545

2:00 PM

2:19-24048 110 West Properties, LLC

Chapter 11

#19.00 Cont'd hrg re: Motion to Dismiss Chapter 11 Case
fr. 10/27/20, 12/8/20, 1/26/21, 2/9/21, 03/02/21, 4/6/21

Docket 145

Tentative Ruling:

Tentative Ruling for 4/27/21:

Please see the tentative ruling for the status conference (Calendar No. 21, 4/27/21 at 2:00 p.m.).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

110 West Properties, LLC

Represented By
Gregory K Jones
Jeffrey Huron
Danielle N Rushing

Movant(s):

Dos Cabezas Properties, LLC

Represented By
Robert P Goe

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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2:19-24048 110 West Properties, LLC

Chapter 11

#20.00 Combined hrg re: Approval of Disclosure Statement
and Chapter 11 Confirmation of Plan

Docket 0

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 21,
4/27/21 at 2:00 p.m.).

Party Information

Debtor(s):

110 West Properties, LLC

Represented By
Gregory K Jones
Jeffrey Huron
Danielle N Rushing

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Chapter 11

#21.00 Cont'd Status Conference re: Chapter 11 Case
fr. 12/17/19, 1/28/20, 02/18/20, 3/31/20, 4/21/20,
5/12/20, 6/2/20, 6/30/20, 8/18/20, 9/15/20, 10/27/20,
12/8/20, 1/26/21, 2/9/21, 03/02/21, 4/6/21

Docket 5

Tentative Ruling:

Tentative Ruling for 4/2721:

Appearances required.

(1) Current issues

(a) Debtor's disclosure statement (dkt. 228) and plan of reorganization (dkt. 227), Tarzana Crossing's objection (dkt. 234)

There is no tentative ruling. Appearances required.

(b) Motion of Doz Cabezas Properties, LLC ("Dos Cabezas") to dismiss case (dkt. 145, 166, the "MTD"), Debtor's opposition (dkt. 168), Dos Cabezas's reply (173), Dos Cabezas's supplemental papers (dkt. 179, 182), Debtor's supplemental papers (dkt. 181, 183), Debtor's status report (dkt. 188), Doz Cabezas's supplemental papers (dkt. 193), Debtor's supplemental response (dkt. 197)

There is no tentative ruling. The outcome of this motion may depend in part on this Court's rulings on Debtor's Disclosure Statement and Plan.

(c) Debtor's applications to retain and compensate ordinary course professionals (dkt. 186, "Ordinary Course Application"), and employ BBG, Inc., as its appraiser (dkt. 187, "Appraisal Application") (together, the "Applications"), Omnibus opposition of Dos Cabezas (dkt. 194), Debtor's reply (dkt. 198)

The parties should be prepared to address the following issues:

(i) Service

Debtor's proofs of service filed in support of the Applications (dkt. 186, at pdf p.112-114 and dkt. 187, at pdf pp.23-25, 29-31, 36-38) do not state

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whether the Applications were served on the twenty largest unsecured creditors as required by LBR 2014-1(a)(2). Debtor should be prepared to address whether those creditors have been served.

(ii) Court approval is required before a "professional" can be employed or paid (11 U.S.C. 327(a))

Section 327(a) states: "Except as otherwise provided in this section, the trustee, with the court's approval, may employ one or more attorneys, accountants, appraisers, auctioneers, or other professional persons, that do not hold or represent an interest adverse to the estate, and that are disinterested persons, to represent or assist the trustee in carrying out the trustee's duties under this title." 11 U.S.C. 327(a).

Under section 327(a) and Rule 2014 (Fed. R. Bankr. P.), chapter 11 debtors are required to obtain court approval before a "professional person" may be employed and paid by the estate. Whether a particular party is a professional person depends upon the nature of services to be performed; the more central the services are to the administration of the estate, the more likely those services will be determined to be professional in nature. *In re That's Entm't Mktg. Grp., Inc.*, 168 B.R. 226, 230 (N.D. Cal. 1994).

(iii) BBG Inc ("BBG")

The tentative ruling is that BBG is a "professional" whose employment must be approved by this Court for the following reasons. First, section 327(a) specifically names "appraisers" as the type of professional that is typically required to be employed by the Court and Debtor does not appear to dispute that characterization. See dkt. 187.

Second, Debtor represents that it intends to sell its real properties, which Debtor concedes "are the primary (if not the only) source of recovery for creditors" and needs an appraiser to gauge the potential value of the properties against any potential offers received. Dkt. 187, pdf pp.2:27-3:8; see also Ex.2, pdf p.13 (describing the intended use of BBG's appraisal as being for "internal purposes related to Chapter 11 restructuring"). The tentative ruling is that such services are central to the administration of Debtor's estate and BBG's employment must be authorized by this Court under 327(a).

(iv) Hammonds & Frey and Hunter & Company - generally

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In support of its contention that Hammonds & Frey and Hunter & Company are "ordinary course professionals," Debtor cites a string of cases articulating tests of varying degrees for determining whether a particular party is a "professional person" requiring employment under 327(a). Dkt. 186, p.10:3-24 (citing *Matter of D'lites*, 108 B.R. 352, 355 (Bankr. N.D. Ga. 1989) ("professional persons" under section 327(a) does not include parties "who provide services that are necessary whether the petition was filed or not"); *In re Fretheim*, 102 B.R. 298, 299 (Bankr. D. Conn. 1989) (employee's function must be related to the administration of the estate and employee must be given discretion and autonomy in some part of administration of the estate to qualify as professional); *In re Johns-Manville Corp.*, 60 B.R. 612, 621 (Bankr. S.D.N.Y. 1986) (professional must play a part in negotiating a plan, adjusting the debtor/creditor relationship, dispose of or acquire assets, or perform any duties required of a debtor by the Bankruptcy Code); *In re Napoleon*, 233 B.R. 910, 913 (Bankr. D. N.J. 1999) (party must play an integral role in the administration of the bankruptcy case or assist the trustee with important activities, such as obtaining post-petition financing, negotiating creditor claims or formulating plan of reorganization); *In re Riker Industries, Inc.*, 122 B.R. 964, 973 (Bankr. N.D. Ohio 1990) (concluding that whether a person is a professional turns on the degree of autonomy within which the person will operate and the degree of supervision or direction required by the trustee); *In re Sieling Associates Ltd. Partnership*, 128 B.R. 721, 723 (Bankr. E.D. Va. 1991) (services that have only a tangential relationship to the administration of the estate are not professional in nature).

Debtor argues that Hammonds & Frey and Hunter & Company are not "professionals" requiring formal retention under section 327(a) because the services they provide are not specific to the chapter 11 case or debtor's restructuring efforts. Dkt. 186, p.6:9-10. Rather, Debtor states that both companies have been employed by it for ten or more years (dkt. 186, p.6:14-19), that Hammonds & Frey "provides accounting services, including bookkeeping services, tax services and preparation of financial documents" (*id.*, p.6:10-12), and Hunter & Company provides management/administrative services, including financial management, keeping Debtor's members apprised of the business operations, assisting in preparing monthly operating reports and other administrative services (*id.*, p.6:14-19).

(v) Hammonds & Frey

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The tentative ruling is that Hammonds & Frey is likely a "professional" whose employment must be approved by this Court. First, section 327(a) specifically names "accountants" as the type of professional that is typically required to be employed by the Court. 11 U.S.C. 327(a). Although Debtor argues that Hammonds & Frey is not providing services specific to the Debtor's bankruptcy case, that is undercut by the parties' own agreement, which contemplates Hammonds & Frey assisting Debtor with the preparation of Monthly Operating Reports ("MORs") and other important financial disclosures required by the Bankruptcy Code. See Dkt. 186, pdf p.29 ("[y]ou have requested that we prepare the financial statements of 110 West Properties, LLC, which comprise interim monthly balance sheet as of April 30, 2020 and interim months following, and the related profit and loss statements in the form prescribed by the Office of the United States Trustee Regional Headquarters.") Dkt. 186, pdf p.29.

Second, Debtor's monthly operating reports demonstrate that Debtor is not an operating business with routine functions requiring common accounting services (see, e.g., dkt. 195, 196), and Debtor's papers do not make clear what "ordinary course" services Hammonds & Frey might have provided post-petition to account for its \$18,497 bill. Dkt. 186, p.7:3-4. On this record, this Court is inclined to conclude that Hammonds & Frey's services are central to the Debtor's administration.

(vi) Hunter & Company

The tentative ruling is that Hunter & Company likely is a "professional" whose employment must be approved by this Court, but Debtor has not provided sufficient evidence of what services Hunter & Company provides.

Debtor argues that Hunter & Company is not providing services specific to Debtor's bankruptcy case, but that assertion is undercut by Debtor's own representation that Hunter & Company is "assisting in preparing monthly operating reports, and other administrative services," (dkt. 186, p.6:18-19) and the fact that Debtor is not an operating business. This also raises concerns about whether there has been a duplication of services with Hammonds & Frey. Additionally, even when Debtor was able to operate a parking facility before COVID-19 closures, Hunter & Company's "Services Agreement" makes clear that it provides services "unrelated to the direct management of the parking facilities." Dkt. 186, pdf p.96. Debtor's papers do not make clear what "ordinary course" services Hunter & Company might

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have provided post-petition to account for its \$40,392.44 bill. Dkt. 186, p.7:6-9. On this record, this Court is inclined to conclude that Hunter & Company's services are central to the Debtor's administration.

The parties should be prepared to address whether this Court should require Debtor to submit supplemental declaration(s) establishing what post-petition services Hammonds & Frey and Hunter & Company have provided.

(vii) Professionals must be "disinterested"

Under 11 USC 327(a), professionals may not hold or represent any interests adverse to the estate and must be disinterested persons. Section 101(14)(A) defines a "disinterested person" as one who, among other things, "is not a creditor . . ." of the estate.

Rule 2014 (Fed. R. Bankr. P.), Local Bankruptcy Rule ("LBR") 2014-1(b)(1)(B) and Judge Bason's Posted Procedures (available at www.cacb.uscourts.gov) require professionals to establish their disinterestedness and disclose the nature of any actual or potential conflicts of interest by filing local form F 2014-1.STMT.DISINTEREST.PROF (statement of disinterestedness).

"Full disclosure is an essential prerequisite for both employment and compensation." *In re Triple Star Welding, Inc.*, 324 B.R. 778, 788-89 (9th Cir. BAP 2005). The disclosure requirements of Rule 2014 are to be strictly applied and bankruptcy courts do not have discretion to waive the requirement of a Rule 2014 statement. *Id.* at 779-90. "Pursuant to section 327, a professional has a duty to make full, candid and complete disclosure of all facts concerning his transactions with the debtor. Professionals must disclose all connections with the debtor, creditors and parties in interest, no matter how irrelevant or trivial those connections may seem." *In re Mehdipour*, 202 B.R. 474, 480 (9th Cir. BAP 1996) (internal citations omitted).

(ix) BBG

In support of the Appraisal Application, BBG submitted a statement of disinterestedness (dkt. 187, pdf pp.32-34). Although Dos Cabezas' raises certain objections regarding BBG's disclosures (dkt. 194, p.5:15-25), it has not cited any authority establishing that BBG should be disqualified simply because it has provided appraisals for Debtor's affiliates in the past. The tentative ruling is that BBG is disinterested and does not hold any interests adverse to the estate.

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(x) Hammonds & Frey and Hunter & Company

Neither the Ordinary Course Application nor Debtor's reply papers include verified statements of disinterestedness from Hammonds & Frey or Hunter & Company affirming that they do not hold any interests adverse to the estate and are disinterested, so on that ground alone their employment cannot be approved.

Additionally and alternatively, neither Hammonds & Frey nor Hunter & Company are disinterested, because they both hold claims against Debtor's estate. See Claims 3 & 5; 11 U.S.C. 101(14)(A) ("[t]he term 'disinterested person' means a person that – (A) is not a creditor").

Additionally and alternatively, although Debtor correctly points out that Dos Cabezas' arguments are premised on a certain amount of speculation about possible conflicts of interests, Debtor does not squarely address the full extent and nature of those relationships or explain why it included a statement of disinterestedness in support of the Appraiser Application, but not for Hammonds & Frey or Hunter & Company. This is all the more troubling because there appears to be a lot of interlocking relationships between Debtor's management and owners of adjacent properties and insiders. See, e.g., Dkt. 186, pdf pp.102-07 (agreement between Ian Hunter, Shamrock Parking, Inc., Debtor, and other entities).

The parties should be prepared to address whether Hammonds & Frey and Hunter & Company are prepared to waive their claims and whether Debtor should be provided an opportunity to file supplemental declarations addressing these issues.

(xi) "Nunc pro tunc," retroactive relief, or employment as of a prior date

Debtor seeks what is characterizes as *nunc pro tunc* approval of BBG's, Hammond & Frey's and Hunter & Company's employment and compensation. First, there is actually a difference between *nunc pro tunc* orders, or "now for then" orders, which are supposed to be reserved for ministerial matters and correction of a court's own errors, and "retroactive" relief, which may be authorized by statute or other authority.

Moreover, there may be a difference between making employment "retroactive" and authorizing employment as of an earlier date. From the instant the bankruptcy petition is filed a professional's compensation is

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contingent on subsequent authorization for the professional's employment, but that contingency does not mean that the authorization itself has to be retroactive.

In any event, regardless of the semantic differences, the issue is whether the professionals whose employment is at issue can qualify for compensation for work that they performed before they sought this Bankruptcy Court's approval of their employment.

(xii) Supreme Court authority; and the standards for relief

The ability to authorize any of the foregoing types of relief has been called into question by the Supreme Court's decision *Roman Catholic Archdiocese of San Juan, Puerto Rico v. Acevedo Feliciano*, 140 S.Ct 696 (2020). Courts have not been consistent in their application of *Acevedo*.

Some courts have interpreted it to prohibit essentially all retroactive relief, as noted by the Bankruptcy Appellate Panel of the Ninth Circuit (the "BAP"). *In re Merriman*, 616 B.R. 381, 391 (9th Cir. BAP 2020) (citing *In re Telles*, No. 8-20-70325-reg, 2020 WL 2121254 (Bankr. E.D.N.Y. Apr. 30, 2020)). Another interpretation is that, although employment cannot be retroactive, compensation can be. *See In re Miller*, 620 B.R. 637, 638 (Bankr. E.D. Cal. 2020). More generally, the BAP has interpreted *Acevedo* as primarily focused on jurisdiction, not retroactive relief generally. *See Merriman*, 616 B.R. 381, 392-95.

The tentative ruling is to agree with *Merriman*. In appropriate circumstances professionals' employment can be approved as of a date prior when their application was filed, but they must satisfy the traditional standards for such relief. Professionals must "(1) satisfactorily explain their failure to receive prior judicial approval; and (2) demonstrate that their services benefitted the bankruptcy estate in a significant manner." *In re Atkins*, 69 F.3d 970, 974 (9th Cir. 1995); *see also In re THC Fin. Corp.*, 837 F.2d 389 (9th Cir. 1988).

(xiii) BBG

BBG's employment application was filed on 1/5/21. Debtor submits that employment and compensation are warranted for BBG because Debtor initially believed that BBG's services were obtained in Debtor's ordinary course of business and filed the Appraiser Application once it was brought to its attention that BBG likely did qualify as a professional under 327(a). Dkt.

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187, p.7:18-22. Debtor also submits that BBG's services benefitted the estate in a significant manner because the appraisal has provided debtor with better evidence to gauge incoming offers for the sale of its properties and to better evaluate its options in the administration of the estate. *Id.* p.7:22-25.

The tentative ruling is to authorize BBG's employment under 11 U.S.C. 327(a) and 328, effective as of the date when its services first were rendered. The tentative ruling is also to retroactively authorize BBG's compensation to 7/7/20, so that it may retain the entirety of the \$4,500 flat fee it received in compensation.

(xiv) Hammonds & Frey and Hunter & Company

The tentative ruling is that Debtor has not adequately briefed the foregoing issues with respect to Hammonds & Frey and Hunter & Company. Although Debtor cites *Acevedo*, Debtor simply concludes that granting its request for retroactive relief "does not seek to 'creat[e] 'facts'" or rewrite history" because Debtor believes that Hammonds & Frey and Hunter & Company do not require formal retention under section 327. Dkt. 186, p.11:23-27. The tentative ruling is that this is insufficient. The parties should be prepared to address a deadline for supplemental papers.

(xv) Proposed ordinary course professionals procedures

The tentative ruling is to grant Debtor's proposed procedures for disclosing any parties Debtor seeks to employ in the ordinary course of its business to allow other parties in interest an opportunity to object to such classification and request a hearing for this Court to determine whether an employment application under 11 USC 327 is appropriate.

(d) Tarzana Crossing v. 110 West Properties, LLC et al. (2:20-ap-01012-NB)

There is no tentative ruling. The outcome of this motion may depend in part on this Court's rulings regarding Debtor's Disclosure Statement and Plan.

(2) Deadlines/dates. This case was filed on 11/29/19.

(a) Bar date: 3/31/20 (dkt.46, timely served, dkt.49).

(b) Procedures order: dkt. 2 (timely served, dkt. 8, 9)

(c) Plan (dkt. 227)/Disclosure Statement (dkt. 228)*: See above.

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(d) Continued status conference: 5/11/21 at 1:00 p.m., concurrent with other matters. No status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 4/6/21:

Appearances required.

(1) Current issues

(a) Debtor's Sale/Settlement Motion (dkt. 212, amended by dkt. 217), opposition of Tarzana Crossing (dkt. 219), Debtor's reply (dkt. 224)

The tentative ruling is to deny the motion for the following reasons.

(i) Proposed sale of Properties

Debtor seeks approval of a sale of substantially all of its assets to Criscione-Meyer Entitlement ("Buyer") for \$22,000,000 pursuant to 11 U.S.C. 363(b) & (f). The proposed purchase price is to be paid as follows. Debtor will receive an immediate cash payment of \$10,000,000 and a promissory note due in full in 24 months at 3% annual percentage rate, a deed of trust securing the remaining \$12,000,000, and a guaranty. Dkt. 217, pp.8:17-9:19.

(A) Legal standard

Under 11 U.S.C. 363(b), the Debtor may sell estate property out of the ordinary course of business, subject to court approval. The Debtor must articulate a sufficient business reason for the sale. *In re Wilde Horse Enters., Inc.*, 136 B.R. 830, 841 (Bankr. C.D. Cal. 1991). In determining whether a

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sale satisfies the business judgment standard, courts must find that the sale "is in the best interests of the estate, *i.e.*, that it is fair and reasonable, that it has been given adequate marketing, that it has been negotiated and proposed in good faith, that the purchaser is proceeding in good faith, and that it is an 'arms length' transaction." *Id.* at 841-42. Whether the articulated business justification is sufficient "depends on the case," in view of "all salient factors pertaining to the proceeding." *In re Walter*, 83 B.R. 14, 19-20 (9th Cir. BAP 1988). In proposing a sale outside of the ordinary course, Debtor has the burden of demonstrating that the sale is in the best interests of the estate. *Wilde Horse*, 136 B.R. at 841.

(B) Debtor has not carried its burden of demonstrating that the sale is in the best interests of the estate

(1) Sound business purpose/adequate disclosures

The "key to the reorganization Chapter ... is *disclosure*" *Wilde Horse*, 136 B.R. at 841 (emphasis in original). "The essential purpose served by disclosure is to ensure that parties in interest are not left entirely at the mercy of the debtor and others having special influence over debtor." *Id.* Accordingly, "[a] sale of substantially all of debtor's property outside the ordinary course of business, and without a Chapter 11 disclosure statement and plan, must be closely scrutinized." *Id.* (citation omitted); *In re Lionel Corp.*, 722 F.2d 1063, 1069 (2d Cir. 1983) (reversing a approval of asset sale after holding that 11 U.S.C. 363 does not "gran[t] the bankruptcy judge *carte blanche*" or "swallo[w] up Chapter 11's safeguards"); *In re Braniff Airways, Inc.*, 700 F.2d 935, 940 (5th Cir. 1983) (prohibiting an attempt "to short circuit the requirements of Chapter 11 for confirmation of a reorganization plan by establishing the terms of the plan *sub rosa* in connection with a sale of assets").

For the reasons stated in Tarzana Crossing's opposition papers (dkt. 219, p.7:2-19) and this Court's own review of the sale ballots (dkt. 224, Ex.A), this Court has concerns that Debtor may be intentionally or inadvertently circumventing important procedural safeguards by failing to provide its members with meaningful and comprehensive disclosures about the proposed sale and settlement with one of the prior defaulting buyers. This includes, but is not limited to, whether Debtor's members were adequately informed of their ability to vote "no" on the sale ballot, the potentially significant adverse tax consequences, and the identity and current financial

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wherewithal of the proposed Buyer.

Debtor also balks at Tarzana Crossing's assertion that Debtor was obligated to disclose potentially adverse tax consequences arising from the sale (dkt. 224, pp.3:19-4:3). But Debtor offers no explanation for why that should not have been disclosed prior to any voting. By electing to proceed under section 363(b), Debtor appears to be depriving creditors from receiving "adequate information" as required by 11 U.S.C. 1125(a)(1), which provides for disclosure of:

information of a kind, and in sufficient detail, as far as is reasonably practicable in light of the nature and history of the debtor and the condition of the debtor's books and records, including a discussion of the potential material Federal tax consequences of the plan to the debtor, any successor to the debtor, and a hypothetical investor of the relevant class to make an informed judgment about the plan [11 U.S.C. 1125(a)(1)]

For the foregoing reasons, the tentative ruling is that Debtor has not sufficiently articulated a sound business justification for electing to sell the Properties through section 363 in lieu of a plan.

(2) Fair and reasonable sale price

The tentative ruling is that Debtor has not presented sufficient evidence for this Court to find that the \$22,000,000 sale price is fair and reasonable. True, the sale price greatly exceeds any other offers Debtor has received, but this Court questions why Debtor would so willingly repackage a sale to one of the defaulting buyers, at a \$13,000,000 discount, despite the parties' contentious past.

Debtor has not presented evidence establishing that the Properties were adequately marketed to justify a private sale to one of the prior defaulting buyers.

Debtor's alleged marketing efforts are broadly described as consisting of Colliers International (x) "distributing marketing materials to prospective potential purchasers of the Properties," (y) "engaging in multiple discussions with prospective potential purchasers," and (z) "initiating a call for offers to thousands of prospective potential investors, developers, real estate agents, buyers, etc.," on 11/16/20." Dkt. 217, p.6:22-27 & Dkt. 183. Debtor further states that in response to the call for offers, Colliers received three offers, ranging from \$8,000,000 to \$13,300,000, which have now all expired. *Id.* pp.6:28-7:2.

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But this Court's 12/8/20 tentative ruling expressed concerns with the adequacy of the marketing efforts up to that point:

First, Debtor is directed to address why the flyer distributed by Collier included the banner "Bankruptcy Court Approved" (dkt.180, Ex.1, *and* dkt.183, Ex.1). This Court has not approved any sale (although this Court has approved the employment of Colliers to market of the subject property). In fact, there are open questions about whether Debtor even has the ability to sell the subject property without Dos Cabezas' consent.

Second, Debtor is directed to address how it proposes to disclose to prospective purchasers of the properties the fact that Debtor is seeking to sell the subject property before the State Court has determined the underlying disputes with Dos Cabezas. True, as noted in the tentative ruling for 10/27/20, it is possible that Debtor can distinguish *In re Popp*, 323 B.R. 260, 268 (9th Cir. BAP 2005), and *In re Owens-Johnson*, 118 B.R. 780 (Bankr. S.D. Cal. 1990). But the tentative ruling is that Debtor has to disclose to prospective purchasers that (as this Court understands the issues) Dos Cabezas is asserting that (i) Debtor does not own the subject property, and therefore cannot sell it, and alternatively (ii) a sale under 11 U.S.C. 363(b) and (f) should not, or cannot, be used to defeat a claim for specific performance.

In other words, Debtor is directed to address (in consultation with Colliers) how it will disclose to prospective purchasers the potential obstacles to selling the property, without either misleading purchasers or unduly chilling any potential bidding. Of course, this Court recognizes that in chapter 11 there is a certain degree of deference to the business judgment of Debtor, in consultation with Colliers, regarding how best to market the subject property and when and how to provide disclosures. This Court also recognizes that Dos Cabezas might decide that it is in its own interest to consent to the sale (while preserving whatever interests or claims it might have regarding the proceeds of sale), so as to (i) maximize the value of the bankruptcy estate's assets, (ii) stop the running of interest - especially any default interest - owed to the senior lienholder, and thereby (iii) maximize the funds from which its claim and/or equity interests could receive distributions.

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But Debtor's flyer ("Bankruptcy Court Approved," dkt.183, Ex.1, at PDF p.9), combined with Debtor's apparently cavalier attitude toward employment and compensation of professionals (see below), raise concerns about whether Debtor and Colliers are not exercising their business judgment appropriately. Debtor is cautioned that failure to exercise proper business judgment, and act as a trustee for the benefit of creditors, might lead to adverse consequences. [See Tentative Ruling for Calendar No. 21, 12/8/20 at 1:00 p.m.]

At the hearing on 12/8/20, this Court orally directed Debtor to file supplemental declaration(s) addressing the foregoing issues. On 1/5/21, Debtor timely filed a status report, but the only additional information Debtor provided in connection with its marketing efforts was that "[t]he proposed buyers who submitted offers for the Properties were advised of the State Court litigation and lis pendens affecting the Properties." Dkt. 188, p.5:24-25. Debtor's status report only raises further questions. Did Collier conduct any further marketing efforts following its November 2020 call for offers? What disclosures were provided to the three interested buyers and/or any other interested buyers? Could such disclosures have had the opposite affect of what this Court was concerned might happen, and instead chilled bidding? If Debtor's \$22,000,000 appraisal is accurate, why were the offers Debtor received (prior to disclosing its existing litigation) so low?

For the foregoing reasons, the tentative ruling is that Debtor has not carried its burden as to this factor.

(ii) Proposed settlement with mutual releases

In conjunction with the proposed sale Debtor also seeks approval of a global settlement with mutual releases between Debtor, the proposed Buyer, Dos Cabezas, Michael Criscione and Michael Meyer that would resolve outstanding litigation. Dkt. 217, pp.18:16-22:3. The tentative ruling is that without further disclosures, this Court is skeptical about the propriety of the proposed settlement. The Debtor's papers do not make clear what consideration Dos Cabezas, Michael Criscione and Michael Meyer are receiving in exchange for the consideration being provided to the estate and execution of the mutual releases. Nor is it clear whether the mutual releases attempt to circumvent 11 U.S.C. 524(e)'s prohibition against third-party releases by dismissing any claims against non-settling third-parties, such as

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RU, LLC, who is also a defendant in the Derivative Action. See Adv. No. 2:20-ap-01012-NB, dkt. 1.

(b) Motion of Doz Cabezas Properties, LLC ("Dos Cabezas") to dismiss case (dkt. 145, 166, the "MTD"), Debtor's opposition (dkt. 168), Dos Cabezas's reply (173), Dos Cabezas's supplemental papers (dkt. 179, 182), Debtor's supplemental papers (dkt. 181, 183), Debtor's status report (dkt. 188), Doz Cabezas's supplemental papers (dkt. 193), Debtor's supplemental response (dkt. 197)

There is no tentative ruling. The outcome of this motion may depend in part on whether this Court adopts its Tentative Ruling for the Sale/Settlement Motion.

(c) Debtor's applications to retain and compensate ordinary course professionals (dkt. 186, "Ordinary Course Application"), and employ BBG, Inc., as its appraiser (dkt. 187, "Appraisal Application") (together, the "Applications"), Omnibus opposition of Dos Cabezas (dkt. 194), Debtor's reply (dkt. 198)

The tentative ruling is to continue this matter concurrent with the continued status conference (see Section 2(d) below).

(d) Tarzana Crossing v. 110 West Properties, LLC et al. (2:20-ap-01012-NB)

There is no tentative ruling. The outcome of this motion may depend in part on whether this Court adopts its Tentative Ruling for the Sale/Settlement Motion.

(2) Deadlines/dates. This case was filed on 11/29/19.

(a) Bar date: 3/31/20 (dkt.46, timely served, dkt.49).

(b) Procedures order: dkt. 2 (timely served, dkt. 8, 9)

(c) Plan/Disclosure Statement*: N/A

(d) Continued status conference: 5/11/21 at 1:00 p.m., *Brief* status report due 4/27/21.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you

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wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 3/2/21:

[Intentionally omitted]

Tentative Ruling for 12/8/20:

Appearances required.

(1) Current issues

(a) Motion of Doz Cabezas Properties, LLC ("Dos Cabezas") to dismiss case (dkt. 145, 166), Debtor's opposition (dkt. 168), Dos Cabezas's reply (173), Dos Cabezas's supplemental papers (dkt. 179, 182), Debtor's supplemental papers (dkt. 181, 183)

The tentative ruling is not to strike the latest, unauthorized briefs. In any event, with or without considering them, the tentative ruling is to deny the motion to dismiss this case, without prejudice, for the reasons stated in this Court's tentative ruling for 10/27/20 (copied below), with the following caveats.

First, Debtor is directed to address why the flyer distributed by Collier included the banner "Bankruptcy Court Approved" (dkt.180, Ex.1, *and* dkt.183, Ex.1). This Court has not approved any sale (although this Court has approved the employment of Colliers to market of the subject property). In fact, there are open questions about whether Debtor even has the ability to sell the subject property without Dos Cabezas' consent.

Second, Debtor is directed to address how it proposes to disclose to prospective purchasers of the properties the fact that Debtor is seeking to sell the subject property before the State Court has determined the underlying disputes with Dos Cabezas. True, as noted in the tentative ruling for

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10/27/20, it is possible that Debtor can distinguish *In re Popp*, 323 B.R. 260, 268 (9th Cir. BAP 2005), and *In re Owens-Johnson*, 118 B.R. 780 (Bankr. S.D. Cal. 1990). But the tentative ruling is that Debtor has to disclose to prospective purchasers that (as this Court understands the issues) Dos Cabezas is asserting that (i) Debtor does not own the subject property, and therefore cannot sell it, and alternatively (ii) a sale under 11 U.S.C. 363(b) and (f) should not, or cannot, be used to defeat a claim for specific performance.

In other words, Debtor is directed to address (in consultation with Colliers) how it will disclose to prospective purchasers the potential obstacles to selling the property, without either misleading purchasers or unduly chilling any potential bidding. Of course, this Court recognizes that in chapter 11 there is a certain degree of deference to the business judgment of Debtor, in consultation with Colliers, regarding how best to market the subject property and when and how to provide disclosures. This Court also recognizes that Dos Cabezas might decide that it is in its own interest to consent to the sale (while preserving whatever interests or claims it might have regarding the proceeds of sale), so as to (i) maximize the value of the bankruptcy estate's assets, (ii) stop the running of interest - especially any default interest - owed to the senior lienholder, and thereby (iii) maximize the funds from which its claim and/or equity interests could receive distributions.

But Debtor's flyer ("Bankruptcy Court Approved," dkt.183, Ex.1, at PDF p.9), combined with Debtor's apparently cavalier attitude toward employment and compensation of professionals (see below), raise concerns about whether Debtor and Colliers are not exercising their business judgment appropriately. Debtor is cautioned that failure to exercise proper business judgment, and act as a trustee for the benefit of creditors, might lead to adverse consequences.

(b) Apparently unauthorized retention and payment of professionals

Debtor is directed to address the apparently unauthorized employment and payment of persons who appear to be professionals: Hammonds & Frey (accounting/tax services), Hunter & Co. (management), and BBG, Inc. (appraisal). See dkt.179, p.4:3-23. Debtor alleges (dkt.181, pp.4:23-5:27) that none of these services are "central to the administration of the estate," and instead are "ordinary course" payments that purportedly do not require Court authorization. But, first, there is no evidence to support those

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allegations and, second, Debtor's explanation raises its own concerns - for example, it is potentially troubling if Debtor is relying on someone to do accounting and tax services who is not addressing the bankruptcy-specific aspects of accounting and tax issues (*i.e.*, if they do not qualify as professionals, that in itself might be problematic).

The tentative ruling is to set a **deadline of 1/5/21** for Debtor and/or those persons to file and serve on all parties in interest either (i) applications for employment, including any authority for retroactive authorization, or (ii) briefs and evidence as to why such persons are not professionals and/or why the payments to them are "ordinary course" and/or whatever other arguments they assert as to why notice, a hearing, and this Court's prior authorization for employment and payment allegedly were not required. The tentative ruling is to set **deadlines of 1/12/21 for any responses, and 1/19/21 for any replies.**

(2) Deadlines/dates. This case was filed on 11/29/19.

(a) Bar date: 3/31/20 (dkt.46, timely served, dkt.49).

(b) Procedures order: dkt. 2 (timely served, dkt. 8, 9)

(c) Plan/Disclosure Statement*: N/a

(d) Continued status conference: 1/26/21 at 1:00 p.m. *Brief* status report due 12/29/20.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

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(1) Current issues

(a) Doz Cabezas Properties, LLC's ("Dos Cabezas") motion to dismiss case (dkt. 145, 166), Debtor's opposition (dkt. 168), Dos Cabezas's reply (173)

The tentative ruling is to deny the motion without prejudice on the grounds that this Court is not persuaded that, on the present record, sufficient "cause" exists under 11 U.S.C. 1112(b)(4) to convert or dismiss this case.

First, litigation takes time and Dos Cabezas has not presented sufficient evidence to persuade this Court that Debtor is not diligently prosecuting this bankruptcy case and the State Court action. To the contrary, Debtor's prosecution of this case appears to be reasonable in light of the uncertainty and challenges presented by COVID-19, the resulting backlog in state courts, and the great deal of latitude afforded to debtors exercising their business judgment about matters of case administration.

Second, Dos Cabezas' reliance on *In re Popp*, 323 B.R. 260, 268 (9th Cir. BAP 2005), and *In re Owens-Johnson*, 118 B.R. 780 (Bankr. S.D. Cal. 1990), is not dispositive. True, it is likely that Debtor's anticipated motion to sell the subject property will be subject to objections based on arguments that (i) Debtor cannot sell what it does not own and (ii) a sale under 11 U.S.C. 363(b) and (f) should not, or cannot, be used to defeat a claim for specific performance. But (x) this Court cannot presume, in advance, that those anticipated objections will prevail, (y) even if a sale were blocked, Debtor has other options (e.g., proposing a plan of reorganization, or waiting until a determination in the State Court litigation that Debtor has an ownership interest in the subject property, and therefore can sell it), and (z) even if all of those things were to turn out in future not to be viable options, it is premature to dismiss this case based on that future possibility.

(b) Dos Cabezas Properties, LLC, Criscione-Meyer Entitlement, Michael Criscione and Michael Meyer's ("Movants") omnibus objection to proofs of claim (dkt. 121, "Claim Objections") 4-1/4-2, 6-1, 7-1, 8-1, 9-1, 10-1, 11-1, 12-1, 13-1, 14-1, 15-1, 16-1, 17-1, 18-1, 19-1, 20-1, 22-1, 23-1/23-2, 24-1, 25-1, 26-1, 27-1, 29-1, 31-1, 32-1, 33-1, 34-1, 35-1, 36-1 and 37-1 ("the Claims"), stipulation & order continuing hearing (dkt. 129, 131), Tarzana Crossing, a Merchant Faire, LLC's ("Tarzana Crossing") opposition (dkt. 137).

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no reply is on file

Appearances required. At the hearing on 8/18/20 this Court was persuaded to continue this matter, rather than adopt the tentative ruling (reproduced below). The parties should be prepared to address the issues set forth in that tentative ruling and their filed papers.

(2) Deadlines/dates. This case was filed on 11/29/19.

(a) Bar date: 3/31/20 (dkt.46, timely served, dkt.49).

(b) Procedures order: dkt. 2 (timely served, dkt. 8, 9)

(c) Plan/Disclosure Statement*: N/a

(d) Continued status conference: 12/8/20 at 1:00 p.m. *Brief* status report due 11/24/20.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, all appearances are telephonic via CourtCall at (888) 882-6878.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

110 West Properties, LLC

Represented By
Gregory K Jones
Jeffrey Huron
Danielle N Rushing

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Adv#: 2:20-01012 Tarzana Crossing, a Merchant Faire, LLC v. 110 West Properties, LLC et al

#22.00 Cont'd hrg re: Motion of Creditors/Defendants Dos Cabezas Properties, LLC, Criscione-Meyer Entitlement, a Limited Liability Company Cell of Almond Tree Capital Management Co., LLC, Michael Criscione to Remand Tarzana Crossing, A Merchant Faire, LLC's Complaint and Request for Attorney's Fees in the Amount of \$2,800.00
fr. 03/31/20, 5/12/20, 6/30/20, 8/18/20, 10/27/20, 12/8/20, 1/26/21, 2/9/21, 03/02/21, 4/6/21

Docket 7

Tentative Ruling:

Tentative Ruling for 4/27/21:

Please see the tentative ruling for the adversary status conference (Calendar No. 21, 4/27/21 at 2:00 p.m.).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

110 West Properties, LLC

Represented By
Gregory K Jones
Jeffrey Huron
Danielle N Rushing

Defendant(s):

110 West Properties, LLC

Represented By
Gregory K Jones
Jeffrey Huron

RU, LLC

Pro Se

Dos Cabezas Properties, LLC

Represented By
Thomas F Nowland
Robert P Goe

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Charity J Manee

Criscione-Meyer Entitlement, LLC

Represented By
Thomas F Nowland

Michael Criscione

Represented By
Thomas F Nowland

First American Title Company

Pro Se

Movant(s):

Dos Cabezas Properties, LLC

Represented By
Thomas F Nowland
Robert P Goe
Charity J Manee

Criscione-Meyer Entitlement, LLC

Represented By
Thomas F Nowland

Michael Criscione

Represented By
Thomas F Nowland

Plaintiff(s):

Tarzana Crossing, a Merchant Faire,

Represented By
Alan M Feld
Peter C. Bronson
Peter C Bronson

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Adv#: 2:20-01012 Tarzana Crossing, a Merchant Faire, LLC v. 110 West Properties, LLC et al

#23.00 Cont'd Status Conference re: Notice of Removal
fr. 03/31/20, 5/12/20, 6/30/20, 8/18/20, 10/27/20
12/8/20, 1/26/21, 2/9/21, 03/02/21, 4/6/21

Docket 1

Tentative Ruling:

Tentative Ruling for 4/27/21:

Please see the tentative ruling for the main case status conference (Calendar No. 21, 4/27/21 at 2:00 p.m.).

Tentative Ruling for 4/6/21:

Please see the tentative ruling for the main case status conference (Calendar No. 20, 4/6/21 at 1:00 p.m.).

Tentative Ruling for 3/2/21:

Please see the tentative ruling for the main case status conference (Calendar No. 23, 3/2/21 at 1:00 p.m.).

Tentative Ruling for 12/8/20:

Appearances required.

(1) Current issues

(a) Motion for remand (adv. dkt. 7, "Remand Motion") and supporting declaration (adv. dkt. 8), Plaintiff's opposition (adv. dkt. 10), Movants' reply (adv. dkt. 12)

This matter has been continued several times to allow time for the parties to participate in settlement negotiations. The tentative ruling is to continue this matter again, concurrent with the status conference in the main case, in view of Debtor's report (main case, dkt.180, p.5:17-20) that Debtor and Tarzana Crossing have tentatively reached a settlement for which Debtor intends to seek approval.

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If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 10/27/20:

[Intentionally omitted]

Tentative Ruling for 8/18/20:

Appearances required.

Pursuant to Judge Bason's COVID19 Procedures, **ONLY TELEPHONIC APPEARANCES WILL BE PERMITTED until further notice.** Please contact CourtCall at (888) 882-6878 to make arrangements for any telephonic appearance. There is no need to contact the Court for permission. Parties who are not represented by an attorney will be able to use CourtCall for free through 9/30/20. Attorneys will receive a 25% discount (for more information, see www.cacb.uscourts.gov, "Judges," "Bason, N.," "Telephonic Instructions").

(1) Current issues

(a) Motion for remand (adv. dkt. 7, "Remand Motion") and supporting declaration (adv. dkt. 8), Plaintiff's opposition (adv. dkt. 10), Movants' reply (adv. dkt. 12)

This matter was continued to allow time for the parties to participate in a second round of mediation, which was been scheduled to take place on 7/17/20 (Main Case, dkt. 129, p.2:7-8). On 8/4/20, Debtor filed a status report (Main Case, dkt. 136, p.4:22-26) stating that "the parties were unable to resolve their disputes [at the mediation, but] are continuing to make efforts to

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resolve their disputes through Mr. Gould."

There is no tentative ruling, but the parties should be prepared (a) to provide this Court with any updates on the status of those negotiations (if any) and (b) to address whether this matter should be further continued or this Court should rule on the merits of the Remand Motion.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear telephonically without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 6/30/20:

[Intentionally omitted]

Tentative Ruling for 5/12/20:

[Intentionally omitted]

Tentative Ruling for 3/31/20:

Appearances required, to address whether, prior to remand, this Court should order mandatory mediation. But, pursuant to Judge Bason's COVID19 Procedures, **telephonic appearances are REQUIRED until further notice.**

Please contact CourtCall at (888) 882-6878 to make arrangements for any telephonic appearance. There is no need to contact the Court for permission. Parties who are not represented by an attorney will be able to use CourtCall for free through 4/30/20. Attorneys will receive a 25% discount (for more information, see www.cacb.uscourts.gov, "Judges," "Bason, N.," "Telephonic Instructions").

This Court has reviewed the parties' joint status report (dkt. 11) and the other filed documents and records in this adversary proceeding.

(1) Current issues

(a) Motion for remand (adv. dkt. 7, "Remand Motion") and supporting

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declaration (adv. dkt. 8), Plaintiff's opposition (adv. dkt. 10), Movants' reply (adv. dkt. 12)

Defendants Dos Cabezas Properties, LLC, Criscione-Meyer Entitlement, LLC, and Michael Criscione (collectively, the "Movants") seek an order remanding this proceeding and for an award of attorneys fees and costs imposed against plaintiff Tarzana Crossing, a Merchant Faire, LLC ("Plaintiff").

For the reasons set forth below, the tentative ruling is to grant the request to remand this removed action, but perhaps defer the remand until after mediation, and deny the request for attorney fees.

(i) Jurisdiction

The parties dispute whether this Court has subject matter jurisdiction to hear this proceeding. The tentative ruling is that this Court has "related to" jurisdiction pursuant to 28 U.S.C. 157(c)(1), because the parties' dispute arises from an alleged breach of contract for the sale of the estate's principal asset.

(ii) Mandatory abstention

The tentative ruling is that mandatory abstention applies as follows. Mandatory abstention under 28 U.S.C. 1334(c)(2) requires seven elements: (1) a timely motion; (2) a purely state law question; (3) a non-core proceeding under 28 U.S.C. 157(c)(1); (4) a lack of independent federal jurisdiction absent the petition under Title 11; (5) that an action is commenced in a state court; (6) the state court action may be timely adjudicated; (7) a state forum of appropriate jurisdiction exists. [*In re Gen. Carriers Corp.*, 258 B.R. 181, 189 (9th Cir. BAP 2001) (internal quotation omitted).]

These elements are satisfied: (1) the motion was timely - the proceeding was removed on 1/22/20 and Movants filed the remand motion just 30 days later, on 2/21/20; (2) the complaint involves purely nonbankruptcy law questions (breach of fiduciary duty etc., adv. dkt. 7, p. 2:17-21) (Movants state that they amended their complaint on 8/30/19, but there is nothing in the record reflecting what was amended (*id.*, p. 2:21), so this Court bases its ruling on the record presented); (3) the proceeding is noncore - the authorities cited by the removing party (dkt.10, pp.14:24-15:14) are distinguishable because they all involved alleged violations of fiduciary duties within the bankruptcy case itself, not prepetition and nonbankruptcy alleged violations; (4) no independent federal jurisdiction has been asserted;

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(5) the action was commenced prepetition, on 12/14/18, in Los Angeles Superior Court; (6) there is no evidence that the proceeding cannot be timely adjudicated in the State Court; and (7) neither party has contested in this Court the State Court's jurisdiction over the proceeding.

(iii) Discretionary abstention

Alternatively, and in addition, the tentative ruling is that discretionary abstention is appropriate.

Discretionary abstention under 28 U.S.C. 1334(c)(1) requires consideration of the following twelve factors:

(1) the effect of lack thereof on the efficient administration of the estate if a Court recommends abstention, (2) the extent to which state law issues predominate over bankruptcy issues, (3) the difficulty or unsettled nature of the applicable law, (4) the presence of a related proceeding commenced in state court or other nonbankruptcy court, (5) the jurisdictional basis, if any, other than 28 U.S.C. 1334, (6) the degree of relatedness or remoteness of the proceeding to the main bankruptcy case, (7) the substance rather than form of an asserted "core" proceeding, (8) the feasibility of severing state law claims from core bankruptcy matters to allow judgments to be entered in state court with enforcement left to the bankruptcy court, (9) the burden of the bankruptcy court's docket, (10) the likelihood that the commencement of the proceeding in bankruptcy court involves forum shopping by one of the parties, (11) the existence of a right to a jury trial, and (12) the presence in the proceeding of nondebtor parties.

In re Tucson Estates, Inc., 912 F.2d 1162, 1167 (9th Cir. 1990).

Several of the *Tucson* factors weigh in favor of abstention. First, the Complaint involves purely state-law issues. Second, this Court would not have jurisdiction over the Complaint but for the Debtor's bankruptcy petition, because the claims arise under state law and there is no diversity between the parties. Third, the Complaint involves several non-debtor parties who have asserted a right to a jury trial. Fourth, permitting the Complaint to proceed in state court will contribute to the efficient administration of the bankruptcy case because the State Court is the best tribunal to adjudicate the parties' state law claims. Fifth, although the Complaint is related to the main bankruptcy case because it involves claims relating to the primary asset of the estate, deferring to the State Court to adjudicate the parties' claims will not unduly interfere with this Bankruptcy Court's determination of other

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matters in the bankruptcy case.

(iv) Movants' request for attorneys' fees is denied

The tentative ruling is to deny Movant's request for attorneys' fees because this Court is not persuaded that Plaintiff lacked an objectively reasonable basis for seeking removal of this action because the dispute is related to the primary asset of Debtor's bankruptcy estate.

Proposed order: Movants are directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(2) Venue/jurisdiction/authority.

The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this Bankruptcy Court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. See generally *Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). See generally *In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(3) Mediation. [Intentionally omitted]

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 27, 2021

Hearing Room 1545

2:00 PM

CONT... 110 West Properties, LLC

Chapter 11

(4) Deadlines: [Intentionally omitted]

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear telephonically without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

110 West Properties, LLC

Represented By
Gregory K Jones
Jeffrey Huron
Danielle N Rushing

Defendant(s):

110 West Properties, LLC

Represented By
Gregory K Jones
Jeffrey Huron

RU, LLC

Pro Se

Dos Cabezas Properties, LLC

Represented By
Thomas F Nowland
Robert P Goe
Charity J Manee

Criscione-Meyer Entitlement, LLC

Represented By
Thomas F Nowland

Michael Criscione

Represented By
Thomas F Nowland

First American Title Company

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 27, 2021

Hearing Room 1545

2:00 PM

CONT... 110 West Properties, LLC

Chapter 11

Plaintiff(s):

Tarzana Crossing, a Merchant Faire,

Represented By
Alan M Feld
Peter C. Bronson
Peter C Bronson

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 4, 2021

Hearing Room 1545

9:00 AM

2:00-00000

Chapter

#1.00 ZoomGov Instructions for all matters on today's calendar:

Meeting ID: 161 695 6766

Password: 701399

Meeting URL: <https://cacb.zoomgov.com/j/1616956766>

Telephone: +1 669 254 5252 or +1 646 828 7666 or 833 568 8864 (Toll Free)

Please connect at least 5 minutes before the start of your hearing, and wait with your microphone muted until your matter is called. You do not need to call Chambers for advance approval. ZoomGov appearances are free

Docket 0

Tentative Ruling:

- NONE LISTED -

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 4, 2021

Hearing Room 1545

10:00 AM

2:17-16752 JULIE CHAVEZ

Chapter 13

#1.00 Hrg re: Motion for relief from stay [RP]

WELLS FARGO BANK, N.A.
vs
DEBTOR

Docket 51

Tentative Ruling:

Appearances are not required.

Grant as set forth below.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 4, 2021

Hearing Room 1545

10:00 AM

CONT... JULIE CHAVEZ

Chapter 13

are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

JULIE CHAVEZ

Represented By
Kourosh M Pourmorady

Movant(s):

Wells Fargo Bank, N.A.

Represented By
Sean C Ferry
Theron S Covey
Eric P Enciso

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 4, 2021

Hearing Room 1545

10:00 AM

2:17-20626 Bernice Roberts Taylor

Chapter 13

#2.00 Hrg re: Motion for relief from stay [RP]

CHAMPION MORTGAGE COMPANY
VS
DEBTOR

Docket 43

***** VACATED *** REASON: APO**

Tentative Ruling:

Party Information

Debtor(s):

Bernice Roberts Taylor

Represented By
Thomas B Ure

Movant(s):

Champion Mortgage Company

Represented By
S Renee Sawyer Blume
Bonni S Mantovani
Alexander G Meissner

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 4, 2021

Hearing Room 1545

10:00 AM

2:20-19956 Arturo Zurita

Chapter 7

#3.00 Hrg re: Motion for relief from stay [RP]

WILMINGTON SAVINGS FUND SOCIETY, FSB
vs
DEBTOR

Docket 58

Tentative Ruling:

Appearances are not required.

Grant as set forth below.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a) (3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 4, 2021

Hearing Room 1545

10:00 AM

CONT... **Arturo Zurita**

Chapter 7

are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Arturo Zurita

Represented By
Matthew D. Resnik

Movant(s):

Wilmington Savings Fund Society,

Represented By
Sean C Ferry

Trustee(s):

Sam S Leslie (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 4, 2021

Hearing Room 1545

10:00 AM

2:19-19759 Thomas Lewis Calvet

Chapter 13

#4.00 Hrg re: Motion for relief from stay [PP]

CAPITAL LNE AUTO FINANCE
vs
DEBTOR

Docket 41

Tentative Ruling:

Appearances are not required.

Grant as set forth below.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 4, 2021

Hearing Room 1545

10:00 AM

CONT... Thomas Lewis Calvet Chapter 13

by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Thomas Lewis Calvet

Represented By
Julie J Villalobos

Movant(s):

Capital One Auto Finance, a division

Represented By
Marjorie M Johnson

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 4, 2021

Hearing Room 1545

10:00 AM

2:21-11852 Britney Tahira Somadhi

Chapter 13

#5.00 Hrg re: Motion for relief from stay [RP]

REAL TIME RESOLUTIONS INC.
vs
DEBTOR

Docket 20

***** VACATED *** REASON: This matter is scheduled to be heard on
05/11/21 at 10:00 a.m.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Britney Tahira Somadhi

Represented By
Sarah E Shapero

Movant(s):

REAL TIME RESOLUTIONS, INC.

Represented By
Renee M Parker

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 4, 2021

Hearing Room 1545

10:00 AM

2:21-11103 Tremaine L Ellis

Chapter 7

#6.00 Hrg re: Motion for relief from stay [PP]

EXETER FINANCE,LLC.
vs
DEBTOR

Docket 11

Tentative Ruling:

Appearances required.

There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 13).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Tremaine L Ellis

Pro Se

Movant(s):

Exeter Finance LLC

Represented By

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 4, 2021

Hearing Room 1545

10:00 AM

CONT... Tremaine L Ellis

Sheryl K Ith

Chapter 7

Trustee(s):

Brad D Krasnoff (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 4, 2021

Hearing Room 1545

10:00 AM

2:21-12790 Benito Javier Lopez

Chapter 13

#7.00 Hrg re: Motion in Individual Case for Order
Imposing a Stay or Continuing the Automatic
Stay as the Court Deems Appropriate

Docket 5

Tentative Ruling:

Grant, subject to the following conditions. Appearances are not required.

After the hearing date this Court will prepare an order and the tentative ruling is to include the following language in that order:

The stay of 11 U.S.C. 362(a) applies subject to the following modifications and conditions:

(1) Service and reconsideration. Any party in interest who was not timely served in accordance with FRBP 7004 (incorporated by FRBP 9014(b)) is hereby granted through 14 days after proper service to seek reconsideration, including retroactive relief (under FRBP 9023 and/or 9024). Any such person (a) may set a hearing on 14 days' notice, (b) may appear by telephone (if arrangements are made per Judge Bason's posted procedures), and (c) may present all arguments orally at the hearing (*i.e.*, no written argument is required). If written arguments appear necessary then this court will set a briefing schedule at the hearing.

(2) Reasons. (a) It appears appropriate to impose the automatic stay, and to impose it as to all persons rather than just as to selected persons, because one purpose of the automatic stay is to preventing a "race to collect" that could unfairly advantage some creditors at the expense of others. (b) To prevent possible abuse, this Court provides the foregoing simple process for reconsideration.

(3) Very limited ruling. This Court's tentative ruling to grant the foregoing relief is solely for purposes of this motion, and is not intended to have any binding effect with respect to any future assertions by any party in interest regarding the existence or lack of existence of good faith in any other context.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 4, 2021

Hearing Room 1545

10:00 AM

CONT... Benito Javier Lopez

Chapter 13

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Benito Javier Lopez

Represented By
Jaime A Cuevas Jr.

Movant(s):

Benito Javier Lopez

Represented By
Jaime A Cuevas Jr.
Jaime A Cuevas Jr.
Jaime A Cuevas Jr.
Jaime A Cuevas Jr.

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 4, 2021

Hearing Room 1545

10:00 AM

2:21-12976 Martha Espino

Chapter 13

#8.00 Hrg re: Motion in Individual Case for Order
Imposing a Stay or Continuing the Automatic
Stay as the Court Deems Appropriate

Docket 8

Tentative Ruling:

Grant, subject to the following conditions, and also subject to any opposition at the hearing. Appearances required.

This Court presumes that counsel for Debtor will not seek to charge Debtor or the estate any fees for appearing at this hearing because such appearance would have been unnecessary if the correct procedures had been followed (if counsel intends to do otherwise, that must be raised and argued at the hearing). If that presumption is incorrect, counsel is directed to notify this Court at the hearing.

Analysis: The motion papers were served on 4/20/21 (dkt. 8) (with an amended notice on 4/23/21, dkt. 15), which is 14 days prior to this hearing. That is permissible, under the Posted Procedures of Judge Bason ("Procedures") (available at www.cacb.uscourts.gov), but the motion papers must give notice that oppositions are due 5 days before the hearing. Debtor's motion papers (dkt. 8) confusingly checked boxes stating that (a) the motion was being heard on regular notice with oppositions due 14 days before the hearing (*id.*, p.2, para. "(3)(a)") (*i.e.*, the same day the motion papers were initially served), and (b) also on shortened notice without providing any deadline for filing oppositions (*id.*, p.2, para. "(3)(b)"). Debtor's amended notice (dkt. 15) does not clarify the appropriate deadline for filing oppositions.

Because of the confusion about when oppositions are due, the tentative ruling is to require appearances and permit oppositions to be made orally at the hearing.

After the hearing date this Court will prepare an order and the tentative ruling is to include the following language in that order:

The stay of 11 U.S.C. 362(a) applies subject to the following

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 4, 2021

Hearing Room 1545

10:00 AM

CONT...

Martha Espino

Chapter 13

modifications and conditions:

(1) Service and reconsideration. Any party in interest who was not timely served in accordance with FRBP 7004 (incorporated by FRBP 9014(b)) is hereby granted through 14 days after proper service to seek reconsideration, including retroactive relief (under FRBP 9023 and/or 9024). Any such person (a) may set a hearing on 14 days' notice, (b) may appear by telephone (if arrangements are made per Judge Bason's posted procedures), and (c) may present all arguments orally at the hearing (*i.e.*, no written argument is required). If written arguments appear necessary then this court will set a briefing schedule at the hearing.

(2) Reasons. (a) It appears appropriate to impose the automatic stay, and to impose it as to all persons rather than just as to selected persons, because one purpose of the automatic stay is to preventing a "race to collect" that could unfairly advantage some creditors at the expense of others. (b) To prevent possible abuse, this Court provides the foregoing simple process for reconsideration.

(3) Very limited ruling. This Court's tentative ruling to grant the foregoing relief is solely for purposes of this motion, and is not intended to have any binding effect with respect to any future assertions by any party in interest regarding the existence or lack of existence of good faith in any other context.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 4, 2021

Hearing Room 1545

10:00 AM

CONT... Martha Espino

Chapter 13

Debtor(s):

Martha Espino

Represented By
Michael Jay Berger

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 4, 2021

Hearing Room 1545

10:00 AM

2:16-20970 Estelle Marie Harnage

Chapter 13

#9.00 Cont'd hrg re: Motion for relief from stay [PP]
fr. 3/23/21

NISSAN MOTOR ACCEPTANCE CORP
vs
DEBTOR

Docket 53

Tentative Ruling:

Tentative Ruling for 5/4/21:
Appearances required.

Based on the arguments and representations by the parties at the hearing on 3/23/21 this Court was persuaded to continue this hearing on the condition that Debtor make a \$1,500 payment by 4/1/21 and another \$408.41 payment by 5/3/21 in an effort to cure outstanding arrears. There is no tentative ruling but the parties should be prepared to update this Court on whether Debtor timely made those payments and whether they will agree to an adequate protection stipulation.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 3/23/21:

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 4, 2021

Hearing Room 1545

10:00 AM

CONT... Estelle Marie Harnage
Appearances are not required.

Chapter 13

Grant as set forth below.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 4, 2021

Hearing Room 1545

10:00 AM

CONT... Estelle Marie Harnage

Chapter 13

Debtor(s):

Estelle Marie Harnage

Pro Se

Movant(s):

Nissan Motor Acceptance

Represented By
Kirsten Martinez

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 4, 2021

Hearing Room 1545

10:00 AM

2:17-17236 Regina Sanders

Chapter 13

#10.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 4/6/21

U.S. BANK NATIONAL ASSOC
vs
DEBTOR

Docket 82

Tentative Ruling:

Tentative Ruling for 5/4/21:
Appearances required.

Based on the arguments and representations of Movant at the hearing on 4/6/21 this Court continued this matter to this date to allow time for the parties to negotiate an adequate protection stipulation. There is no tentative ruling. The parties should be prepared to provide an update on the status of those negotiations, if any.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 4/6/21:
Appearances are not required.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 4, 2021

Hearing Room 1545

10:00 AM

CONT... Regina Sanders

Chapter 13

Grant as set forth below.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a) (3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Regina Sanders

Represented By
Thomas B Ure

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 4, 2021

Hearing Room 1545

10:00 AM

CONT... Regina Sanders

Chapter 13

Movant(s):

U.S. BANK NATIONAL

Represented By
Sean C Ferry
Eric P Enciso

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 4, 2021

Hearing Room 1545

10:00 AM

2:20-15698 Gerald Edward Young

Chapter 13

#11.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 4/6/21

HIGHLAND HACIENDAS HOMEOWNERS
ASSOCIATION
vs
DEBTOR

Docket 69

Tentative Ruling:

Tentative Ruling for 5/4/21:
Appearances required.

Based on the arguments and representations of the parties at the hearing on 4/6/21 this Court continued this matter to allow time for the parties to review their records and negotiate the terms of an adequate protection stipulation. There is no tentative ruling. The parties should be prepared to provide an update on the status of those negotiations.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 4/6/21:
Appearances required.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, May 4, 2021

Hearing Room 1545

10:00 AM

CONT... Gerald Edward Young

Chapter 13

There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 71).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Gerald Edward Young

Represented By
Erika Luna

Movant(s):

Highland Haciendas Homeowners

Represented By
Reilly D Wilkinson

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Courtroom 1545 Calendar**

Tuesday, May 4, 2021

Hearing Room 1545

10:00 AM

2:20-15990 Adrian T Bean

Chapter 13

#12.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 1/5/21, 3/2/21, 4/6/21

MILL CITY MORTGAGE LOAN TRUST 2018-4
vs
DEBTOR

Docket 34

Tentative Ruling:

Tentative Ruling for 5/4/21:
Appearances required.

Based on the arguments and representations of the parties at the hearing on 4/6/21, this Court continued the matter to this date to allow time for the parties to continued negotiating the terms of an adequate protection stipulation. There is no tentative ruling. The parties should be prepared to provide an update on the status of those negotiations.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 4/6/21:
Appearances required.

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Hearing Room 1545

10:00 AM

CONT... Adrian T Bean

Chapter 13

Based on the arguments and representations of the parties at the hearing on 3/2/21, this Court continued the matter to this date to allow time for the parties to negotiate the terms of an adequate protection stipulation. There is no tentative ruling. The parties should be prepared to provide an update on the status of any negotiations.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 3/2/21:
Appearances required.

Based on the arguments and representations of the parties at the hearing on 1/5/21, this Court continued the matter to this date to allow time for the parties to negotiate the terms of an adequate protection stipulation. There is no tentative ruling. The parties should be prepared to provide an update on the status of any negotiations.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov

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Central District of California
Los Angeles
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Tuesday, May 4, 2021

Hearing Room 1545

10:00 AM

CONT... **Adrian T Bean**

Chapter 13

instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

**Tentative Ruling for 1/5/21:
Appearances required.**

There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 44).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Adrian T Bean

Represented By
Christopher J Langley

Movant(s):

Mill City Mortgage Loan Trust 2018

Represented By
Sean C Ferry
Kristin A Zilberstein

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, May 4, 2021

Hearing Room 1545

10:00 AM

CONT... Adrian T Bean

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 4, 2021

Hearing Room 1545

11:00 AM

2:20-20550 Andrew Ming Zhou

Chapter 7

#1.00 Hrg re: Motion to Dismiss Debtor

Docket 35

Tentative Ruling:

Appearances are not required.

Grant.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Andrew Ming Zhou

Represented By
Jeffrey J Hagen

Trustee(s):

Elissa Miller (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, May 4, 2021

Hearing Room 1545

11:00 AM

2:19-14137 Zeta Graff

Chapter 7

Adv#: 2:20-01677 Leslie v. Graff

#2.00 Hrg re: Motion to Intervene in Adversary Proceeding

Docket 12

Tentative Ruling:

Please see the tentative ruling for the Status Conference (Calendar No. 3, 5/4/21 at 11:00 a.m.).

Party Information

Debtor(s):

Zeta Graff

Represented By
Damion Robinson

Defendant(s):

Zeta Graff

Represented By
Damion Robinson

Plaintiff(s):

Sam S. Leslie

Represented By
Elissa Miller
Asa S Hami

Trustee(s):

Sam S Leslie (TR)

Represented By
Elissa Miller

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, May 4, 2021

Hearing Room 1545

11:00 AM

2:19-14137 Zeta Graff

Chapter 7

Adv#: 2:20-01677 Leslie v. Graff

- #2.10** Cont'd Status Conference re: Complaint to Deny / Revoke Debtor's Discharge Pursuant to 11 U.S.C. 727(a)(6) and (d)(3) fr. 2/9/21, 4/27/21

Docket 1

Tentative Ruling:

Tentative Ruling for 5/4/21:

Grant in relevant part the motion to intervene, and continue the status conference, as set forth below. Appearances are not required on 5/4/21.

(A) Current issues

(1) Motion of the United States Trustee ("UST") to intervene (adv. dkt. 12), Debtor/Defendant's Opposition (adv. dkt. 15), UST's Response (adv. dkt. 16)

The tentative ruling is to allow the UST to intervene as a co-plaintiff, but not technically "substitute" for the Chapter 7 Trustee as a plaintiff. As a practical matter, there may be no difference because the foregoing tentative ruling is subject to whatever rights the Chapter 7 Trustee has to withdraw or otherwise turn over prosecution of this matter to the UST.

The reasons are that, although Debtor is correct that as a technical matter none of the grounds for substitution are present under Rule 25 (Fed. R. Civ. P., incorporated by Fed. R. Bankr. P. 7025), nevertheless the UST satisfies the grounds for intervention under Rule 24 (Fed. R. Civ. P., incorporated by Fed. R. Bankr. P. 7024). Specifically, there are

- (1) independent grounds for jurisdiction [as the UST argues persuasively, the Bankruptcy Code provides that he can be heard on any matter, and claims under 11 U.S.C. 727 arise under the Bankruptcy Code, thus establishing jurisdiction under 28 U.S.C. §§ 157(b)(1) and 1334, so there is both personal and subject matter jurisdiction];
- (2) the motion is timely [the UST argues persuasively that no discovery deadlines have passed in this adversary proceeding, and there is no cognizable prejudice from the timing]; and

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CONT...

Zeta Graff

Chapter 7

(3) the applicant's claim or defense, and the main action, have a question of law or a question of fact in common [- the UST seeks to prosecute the identical claim, so this factor is satisfied].

[*Northwest Forest Res. Council v. Glickman*, 82 F.3d 825, 839 (9th Cir. 1996) (citing *Greene v. United States*, 996 F.2d 973, 978 (9th Cir. 1993) (paragraph breaks added)].

In addition, it would be inappropriate for Defendant/Debtor to escape the possible consequences of her acts and omissions - the potential denial of her discharge - because those same acts and omissions may have deprived the Chapter 7 Trustee of sufficient funds to be able to prosecute this action, or alternatively because the bankruptcy estate never had enough funds for such prosecution. These are exactly the sort of circumstances in which someone else should be permitted to intervene, as recognized by the drafters of the Rules when they provided for notice and an opportunity to object to any dismissal of an action under 11 U.S.C. 727. See Rule 7041 (Fed. R. Bankr. P.).

None of the foregoing should be interpreted as expressing any view of the merits of the action. All rights are reserved, including all defenses that Defendant/Debtor may have.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

(B) Standard requirements

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited at the hearing(s) on 2/9/21.

(2) Mediation

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Hearing Room 1545

11:00 AM

CONT...

Zeta Graff

[Intentionally omitted]

Chapter 7

(3) Deadlines

This adversary proceeding has been pending since 12/7/20. The deadlines have been memorialized in this Court's prior scheduling orders (dkt. 10, 18), except for the following, which need no written order.

Joint Status Report: No written status report required.

Continued status conference: 7/20/21 at 11:00 a.m.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 4/27/21:

Continue as set forth below. Appearances are not required on 4/27/21.

(A) Current issues

This Court has reviewed the parties' joint status report (adv.dkt. 14) and the other filed documents and records in this adversary proceeding.

(1) United States Trustee's Motion to Intervene (adv. dkt. 12).

The parties' joint status report requests that this status conference be continued, to be held contemporaneously with the hearing on the United States Trustee's Motion to Intervene. Adv. dkt. 14, p. 4. The tentative ruling is to grant the request to continue the status conference to the date and time set forth below.

(B) Standard requirements

The following are Judge Bason's standard requirements for status

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Central District of California
Los Angeles
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11:00 AM

CONT... **Zeta Graff**

Chapter 7

conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited at the hearing(s) on 2/9/21.

(2) Mediation

[Intentionally omitted]

(3) Deadlines

This adversary proceeding has been pending since 12/7/20. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Joinder of parties/amendment of pleadings-deadline: 5/24/21

Discovery cutoff (for completion of discovery): 7/1/21.

Expert(s) - deadline for reports: N/A

Expert(s) - discovery cutoff (if different from above): N/A

Dispositive motions to be heard no later than: 8/3/21

Joint Status Report: **No written status report required.**

Continued status conference: **5/4/21 at 11:00 a.m.**

Lodge Joint Proposed Pre-Trial Order: 8/24/21

Pretrial conference: 9/7/21 at 2:00 p.m.

Deliver trial exhibits to other parties and chambers, including direct testimony by declaration unless excused: 9/13/21 (for the format of exhibits and other trial procedures, please see the Procedures of Judge Bason (posted at www.cacb.uscourts.gov) then search for "Trial Practice" BUT, at least during the COVID-19 shut down of the courtroom, also see the forms of order regarding video trials, posted on Judge Bason's portion of the Court's above-referenced web page)

Trial commencement: 9/16/21 at 9:00 a.m.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at

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CONT... Zeta Graff

Chapter 7

www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 2/9/21:
Appearances required.

(A) Current issues

This Court has reviewed the parties' joint status report (adv.dkt. 8) and the other filed documents and records in this adversary proceeding.

(1) Sale or Refinance of Defendant/Debtor's Home

In the parties' joint status report, Defendant/Debtor contends that this proceeding should be postponed because it is likely to become moot when either the Plaintiff/Trustee sells her home or she refinances her home. Adv. dkt. 8, p. 4. There is no tentative ruling, but the parties should be prepared to discuss when they expect the sale or refinancing will be finalized.

(B) Standard requirements

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority

The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this Bankruptcy Court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. See generally *Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l*

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11:00 AM

CONT...

Zeta Graff

Chapter 7

Network, Ltd. v. Sharif, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). See generally *In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation

[Intentionally omitted.]

(3) Deadlines

This adversary proceeding has been pending since 12/7/20. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Joinder of parties/amendment of pleadings-deadline: 5/24/21

Discovery cutoff (for completion of discovery): 7/1/21.

Expert(s) - deadline for reports: N/A

Expert(s) - discovery cutoff (if different from above): N/A

Dispositive motions to be heard no later than: 8/3/21

Joint Status Report: **4/13/21**.

Continued status conference: **4/27/21 at 11:00 a.m.**

Lodge Joint Proposed Pre-Trial Order: 8/24/21

Pretrial conference: 9/7/21 at 2:00 p.m.

Deliver trial exhibits to other parties and chambers, including direct testimony by declaration unless excused: 9/13/21 (for the format of exhibits and other trial procedures, please see the Procedures of Judge Bason (posted at www.cacb.uscourts.gov) then search for "Trial Practice" BUT, at least during the COVID-19 shut down of the courtroom, also see the forms of order regarding video trials, posted on Judge Bason's portion of the Court's above-referenced web page)

Trial commencement: 9/16/21 at 9:00 a.m.

If appearances are not required at the start of this tentative ruling but you

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CONT... Zeta Graff

Chapter 7

wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Zeta Graff

Represented By
Damion Robinson

Defendant(s):

Zeta Graff

Pro Se

Plaintiff(s):

Sam S. Leslie

Represented By
Elissa Miller

Trustee(s):

Sam S Leslie (TR)

Represented By
Elissa Miller

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Tuesday, May 4, 2021

Hearing Room 1545

11:00 AM

2:19-20396 Irene H Kim

Chapter 7

Adv#: 2:20-01303 Yoo v. Kim et al

#3.00 Cont'd Status Conference re: Complaint for: (1) Avoidance of Voidable Transfers; (2) Recovery of Avoided Transfers; and (3) Turnover of Property [11 U.S.C. Section 542, 54, 548 and 550] fr.11/3/20, 12/1/20

Docket 1

Tentative Ruling:

Tentative Ruling for 5/4/21:

Appearances required.

(A) Current issues

This Court has reviewed the parties' joint status report (adv. dkt. 40) and the other filed documents and records in this adversary proceeding. This Court has also reviewed Debtor's motion for conversion back to chapter 13 (dkt. 66).

(1) Conversion to chapter 13 and/or dismissal of Defendant/Debtor

Plaintiff states that he proposed to dismiss Defendant/Debtor from this action but received no response. Adv. Dkt. 40, p. 3, para. "(E)". Meanwhile, Defendant/Debtor seeks to convert her case back to chapter 13 (*Id.* p.4, para. "(G)"), and states that is "willing to include any costs and legal fees incurred in this Adversary Proceeding by the Chapter 7 Trustee." *Id.* On 4/26/21 Debtor filed such a motion (2:19-bk-20396-NB, dkt. 66).

The tentative ruling is to continue this adversary proceeding status conference as set forth below, to see if the motion to reconvert is granted. But before adopting any such tentative ruling, this Court needs answers to the following issues.

First, does Debtor's statement that she is willing to "include" the Chapter 7 Trustee's costs and legal fees incurred "in this Adversary Proceeding" mean that she proposes to pay immediately and in full all of the Chapter 7 Trustee's allowed administrative expenses, including not just the fees and costs of this adversary proceeding but also, for example, the Trustee's own compensation under 11 U.S.C. 326?

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11:00 AM

CONT...

Irene H Kim

Chapter 7

Second, how will Debtor fund that proposed payment?

(2) The deadline to complete discovery has passed

Defendant/Debtor states that she anticipates propounding discovery on Plaintiff/Trustee and completing discovery by 6/1/21. Adv. Dkt. 40, p.2. But this Court's prior scheduling order (adv. dkt. 23, para. "(3)(f)") set 3/5/21 as the "last day for discovery to be completed, including receiving responses to discovery requests," (other than expert discovery) and Defendant/Debtor has not filed any motion for reconsideration of that deadline. The tentative ruling is that the Status Report cannot be treated as such a motion.

(B) Standard requirements

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority

The parties have stated their positions (see adv. dkt. 13, p.4, para. F) and, to the extent necessary, this Court has not yet ruled on these issues.

(2) Mediation: The tentative ruling is not to order any mediation at this time.

(3) Deadlines

This adversary proceeding has been pending since 8/27/20. [The deadlines have been memorialized in this Court's scheduling order (adv. dkt. 23), except for the following, which need no written order.]

Joint Status Report: 5/18/21

Continued status conference: 6/1/21 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers, including direct testimony by declaration unless excused: TBD

Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you

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CONT... Irene H Kim

Chapter 7

wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 12/1/20:
Appearances required.

Current issues

(a) Plaintiff/Trustee's motion for default judgment against Defendants Hyong Chan Kim ("H. Kim") and Sunhee Kim ("S. Kim") (adv. dkt. 14, 15, 16), no opposition is on file

The tentative ruling is to grant the motion and enter default judgment against H. Kim and S. Kim on the 1st, 4th, and 7th through 10th (mis-labeled 9th) claims for relief in the Complaint. See Adv. Dkt. 1.

(b) Untimely status report

The last two joint status reports have been filed late without explanation or acknowledgment of their untimeliness (see adv. dkt. 28 (8 days late) & adv. dkt. 19 (2 days late)). Counsel for both parties are cautioned that their continued failure to timely comply with this Court's deadlines may result in adverse consequences.

(A) Standard requirements

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, May 4, 2021

Hearing Room 1545

11:00 AM

CONT...

Irene H Kim

Chapter 7

The parties have stated their positions (see adv. dkt. 13, p.4, para. F) and, to the extent necessary, this Court has not yet ruled on these issues.

(2) Mediation: [Intentionally omitted]

(3) Deadlines

This adversary proceeding has been pending since 8/27/20. The following dates and deadlines apply pursuant to this Court's scheduling order (adv. dkt. 19):

Joinder of parties/amendment of pleadings: 1/22/21 deadline.

Discovery cutoff (for completion of discovery): 3/5/21

Expert(s) - deadline for reports: 3/21/21

Expert(s) - discovery cutoff (if different from above): 3/26/21

Dispositive motions to be heard no later than: 5/4/21

Joint Status Report: 4/20/21

Continued status conference: 5/4/21 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers, including direct testimony by declaration unless excused: TBD

Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 11/3/20:
Appearances required.

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Los Angeles
Judge Neil Bason, Presiding
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CONT... Irene H Kim

Chapter 7

This Court has reviewed the parties' joint status report (adv.dkt. 13) and the other filed documents and records in this adversary proceeding.

(A) Standard requirements

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority

The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this Bankruptcy Court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. *See generally Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). *See generally In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation

[Intentionally omitted: it appears that mediation may be unproductive, at least prior to discovery and narrowing of the issues.]

(3) Deadlines

This adversary proceeding has been pending since 8/27/20. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

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CONT...

Irene H Kim

Chapter 7

Joinder of parties/amendment of pleadings: 1/22/21 deadline.

Discovery cutoff (for *completion* of discovery): 2/5/21.

Expert(s) - deadline for reports: 2/12/21.

Expert(s) - discovery cutoff (if different from above): 2/26/21.

Dispositive motions to be *heard* no later than: 4/6/21.

Joint Status Report: 12/8/20

Continued status conference: 12/22/20 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers, including direct testimony by declaration unless excused (see posted forms of order for video trials, on Judge Bason's portion of the Court's web page): TBD (typically 3 court days before trial) (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, all appearances are telephonic via CourtCall at (888) 882-6878.

Party Information

Debtor(s):

Irene H Kim

Represented By
Donald E Iwuchuku

Defendant(s):

Hyong Chan Kim

Pro Se

Sunhee Kim

Pro Se

Irene H Kim

Represented By

**United States Bankruptcy Court
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CONT... Irene H Kim

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Donald E Iwuchuku

Plaintiff(s):

Timothy J Yoo

Represented By
Carmela Pagay

Trustee(s):

Timothy Yoo (TR)

Represented By
Carmela Pagay

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 4, 2021

Hearing Room 1545

11:00 AM

2:18-24302 GL Master Inc

Chapter 7

Adv#: 2:20-01678 Wolkowitz v. Hot Pot Austin LLC

#4.00 Cont'd status conference re: Complaint for Avoidance and Recovery of Preferential Transfers [11 U.S.C. Sections 547(b), 550(a), and 551] fr. 2/9/21

Docket 1

Tentative Ruling:

Tentative Ruling for 5/4/21:

Continue to 6/29/21 at 11:00 a.m. for Plaintiff/Trustee to file a motion for default judgment based on this Court's review of Plaintiff/Trustee's unilateral status report (adv. dkt. 7). Appearances are not required on 5/4/21.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 2/9/21:

Continue to 5/4/21 at 11:00 a.m. for Plaintiff/Trustee to file a motion for default judgment based on this Court's review of Plaintiff/Trustee's unilateral status report (adv. dkt. 6). Appearances are not required on 2/9/21.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

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CONT... GL Master Inc

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are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

GL Master Inc

Represented By
Thomas J Polis

Defendant(s):

Hot Pot Austin LLC

Pro Se

Plaintiff(s):

Edward M. Wolkowitz

Represented By
Juliet Y Oh
Richard P Steelman Jr

Trustee(s):

Edward M Wolkowitz (TR)

Represented By
Juliet Y Oh

**United States Bankruptcy Court
Central District of California
Los Angeles
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Courtroom 1545 Calendar**

Tuesday, May 4, 2021

Hearing Room 1545

11:00 AM

2:18-24302 GL Master Inc

Chapter 7

Adv#: 2:20-01679 Wolkowitz v. IPot Plano LLC

#5.00 Cont'd status conference re: Complaint for Avoidance and Recovery of Preferential Transfers [11 U.S.C. Sections 547(b), 550(a), and 551] fr. 2/9/21

Docket 1

*** VACATED *** REASON: Notice of voluntary dismissal of adv proceeding [dkt. 4]

Tentative Ruling:

Party Information

Debtor(s):

GL Master Inc

Represented By
Thomas J Polis

Defendant(s):

IPot Plano LLC

Pro Se

Plaintiff(s):

Edward M. Wolkowitz

Represented By
Juliet Y Oh
Richard P Steelman Jr

Trustee(s):

Edward M Wolkowitz (TR)

Represented By
Juliet Y Oh

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, May 4, 2021

Hearing Room 1545

11:00 AM

2:18-24302 GL Master Inc

Chapter 7

Adv#: 2:20-01680 Wolkowitz v. The Law Offices of Lynn Chao, A.P.C., a California

#6.00 Cont'd status conference re: Complaint for avoidance and recovery of preferential transfers [11 U.S.C. sections 547(b), 550(a), and 551] fr. 2/9/21

Docket 1

Tentative Ruling:

Tentative Ruling for 5/4/21:

Continue as set forth below. Appearances are not required on 5/4/21.

(A) Current issues

This Court has reviewed the parties' joint status report (adv. dkt. 9) and the other filed documents and records in this adversary proceeding.

(B) Standard requirements

The following are Judge Bason's standard requirements for status conferences (except as noted below). (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (adv. dkt. 9, p. 4, para. "(F)").

(2) Mediation

[Non-standard provision.] The tentative ruling is not to order mediation at this time. This Court recognizes that the parties both expressed an interest in mediation as of the filing of that status report (adv. dkt. 14) on 4/19/21. But thereafter, in connection with more global mediation, The Law Offices of Lynn Chao, APC ("ChaoLaw") did not reach any settlement, and ChaoLaw faces ongoing contempt sanctions regarding discovery in a related proceeding in this case. Accordingly, it appears that ordering ChaoLaw to mediation in this adversary proceeding likely would be a waste of time and money.

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CONT... GL Master Inc

Chapter 7

(3) Deadlines

This adversary proceeding has been pending since 12/7/20. [The deadlines have been memorialized in this Court's scheduling order (adv. dkt. 7), except for the following, which need no written order.]

Joint Status Report: 7/6/21

Continued status conference: 7/20/21 at 11:00 a.m.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 2/9/21:

Appearances required.

(A) Current issues

This Court has reviewed the parties' joint status report (adv.dkt. 5) and the other filed documents and records in this adversary proceeding. Certain key persons already have been ordered to mediation in the bankruptcy case as a whole, by oral order at the hearing on 1/26/21 commencing at 2:00 p.m. (*see also* Mem. Dec., dkt.276, p.30:20-21). But no proposed mediation has been lodged as of the preparation of this tentative ruling. Therefore, as a "belt and suspenders" precaution, the tentative ruling is to order mediation in this adversary proceeding as well (as set forth below).

(B) Standard requirements

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these

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CONT... **GL Master Inc**

Chapter 7

issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority

The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this Bankruptcy Court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. *See generally Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). *See generally In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation

Is there is any reason why this Court should not order the parties to mediation before one of the volunteer mediators (*not* a Bankruptcy Judge), and meanwhile set the deadlines set forth below? The tentative ruling is to set a **deadline of 2/23/21** for the parties to lodge a proposed mediation order (the parties are directed to use the time between now and that deadline to find a mutually agreeable mediator whose schedule can accommodate the needs of this matter; and if the parties cannot even agree on a mediator they may lodge separate orders and Judge Bason will chose among them, or issue his own order).

(3) Deadlines

This adversary proceeding has been pending since 12/7/20. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

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11:00 AM

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GL Master Inc

Chapter 7

Joinder of parties/amendment of pleadings-deadline: 7/20/21

Discovery cutoff (for completion of discovery): 8/3/21

Expert(s) - deadline for reports: 8/10/21

Expert(s) - discovery cutoff (if different from above): 8/17/21

Dispositive motions to be heard no later than: 9/28/21

Joint Status Report: 4/20/21

Continued status conference: 5/4/21 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers, including direct testimony by declaration unless excused: TBD

Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

GL Master Inc

Represented By
Thomas J Polis

Defendant(s):

The Law Offices of Lynn Chao,

Pro Se

Plaintiff(s):

Edward M. Wolkowitz

Represented By
Juliet Y Oh

**United States Bankruptcy Court
Central District of California
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Chapter 7

Richard P Steelman Jr

Trustee(s):

Edward M Wolkowitz (TR)

Represented By
Juliet Y Oh

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Tuesday, May 4, 2021

Hearing Room 1545

11:00 AM

2:18-24302 GL Master Inc

Chapter 7

Adv#: 2:20-01681 Wolkowitz v. Wonder Hot Pot Bellaire LLC, a Texas limited liabi

#7.00 Cont'd status conference re: Complaint for Avoidance and Recovery of Preferential Transfers [11 U.S.C. Sections 547(b), 550(a), and 551] fr. 2/9/21

Docket 1

*** VACATED *** REASON: Notice of voluntary dismissal of adv proceeding [dkt. 4]

Tentative Ruling:

Party Information

Debtor(s):

GL Master Inc

Represented By
Thomas J Polis

Defendant(s):

Wonder Hot Pot Bellaire LLC, a

Pro Se

Plaintiff(s):

Edward M. Wolkowitz

Represented By
Juliet Y Oh
Richard P Steelman Jr

Trustee(s):

Edward M Wolkowitz (TR)

Represented By
Juliet Y Oh

**United States Bankruptcy Court
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Hearing Room 1545

11:00 AM

2:18-24302 GL Master Inc

Chapter 7

Adv#: 2:20-01682 Wolkowitz v. XFY Time Square LLC, a Texas limited liability com

#8.00 Cont'd status conference re: Complaint for Avoidance and Recovery of Preferential Transfers [11 U.S.C. Sections 547(b), 550(a), and 551] fr. 2/9/21

Docket 1

***** VACATED *** REASON: Notice of voluntary dismissal of adv proceeding [dkt. 4]**

Tentative Ruling:

Party Information

Debtor(s):

GL Master Inc

Represented By
Thomas J Polis

Defendant(s):

XFY Time Square LLC, a Texas

Pro Se

Plaintiff(s):

Edward M. Wolkowitz

Represented By
Juliet Y Oh
Richard P Steelman Jr

Trustee(s):

Edward M Wolkowitz (TR)

Represented By
Juliet Y Oh

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Hearing Room 1545

11:00 AM

2:18-24302 GL Master Inc

Chapter 7

Adv#: 2:20-01683 Wolkowitz v. Young Young Food, LLC

#9.00 Cont'd Status Conference re: Complaint for Avoidance and Recovery of Preferential Transfers [11 U.S.C. Sections 547(b), 550(a) and 551] fr. 2/9/21

Docket 1

Tentative Ruling:

Tentative Ruling for 5/4/21:

Continue as set forth below. Appearances are not required on 5/4/21.

(A) Current issues

This Court has reviewed the parties' joint status report (adv. dkt. 9) and the other filed documents and records in this adversary proceeding.

(B) Standard requirements

The following are Judge Bason's standard requirements for status conferences (except as noted below). (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (adv. dkt. 9, p. 4, para. "(F)").

(2) Mediation

[Non-standard provision.] The tentative ruling is not to order mediation at this time. This Court recognizes that the parties both expressed an interest in mediation as of the filing of that status report on 4/19/21. But thereafter defendant Young Young Food, LLC ("YYF") failed to appear at a hearing on 4/27/21 on a motion regarding contempt sanctions regarding discovery in a related proceeding in this case. Accordingly, it appears that ordering YYF to mediation in this adversary proceeding likely would be a waste of time and money.

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CONT...

GL Master Inc

Chapter 7

(3) Deadlines

This adversary proceeding has been pending since 12/7/20. [The deadlines have been memorialized in this Court's scheduling order (adv. dkt. 7), except for the following, which need no written order.]

Joint Status Report: 7/6/21

Continued status conference: 7/20/21 at 11:00 a.m.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 2/9/21:

Appearances required.

(A) Current issues

This Court has reviewed the parties' joint status report (adv.dkt. 5) and the other filed documents and records in this adversary proceeding. Certain key persons already have been ordered to mediation in the bankruptcy case as a whole, by oral order at the hearing on 1/26/21 commencing at 2:00 p.m. (see *also* Mem. Dec., dkt.276, p.30:20-21). But no proposed mediation has been lodged as of the preparation of this tentative ruling. Therefore, as a "belt and suspenders" precaution, the tentative ruling is to order mediation in this adversary proceeding as well (as set forth below).

(B) Standard requirements

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status

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conference.)

Chapter 7

(1) Venue/jurisdiction/authority

The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this Bankruptcy Court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. *See generally Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). *See generally In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation

Is there is any reason why this Court should not order the parties to mediation before one of the volunteer mediators (*not* a Bankruptcy Judge), and meanwhile set the deadlines set forth below? The tentative ruling is to set a **deadline of 2/23/21** for the parties to lodge a proposed mediation order (the parties are directed to use the time between now and that deadline to find a mutually agreeable mediator whose schedule can accommodate the needs of this matter; and if the parties cannot even agree on a mediator they may lodge separate orders and Judge Bason will chose among them, or issue his own order).

(3) Deadlines

This adversary proceeding has been pending since 12/7/20. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Joinder of parties/amendment of pleadings-deadline: 7/20/21

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GL Master Inc

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Discovery cutoff (for completion of discovery): 8/3/21

Expert(s) - deadline for reports: 8/10/21

Expert(s) - discovery cutoff (if different from above): 8/17/21

Dispositive motions to be heard no later than: 9/28/21

Joint Status Report: 4/20/21

Continued status conference: 5/4/21 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers, including direct testimony by declaration unless excused: TBD

Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

GL Master Inc

Represented By
Thomas J Polis

Defendant(s):

Young Young Food, LLC

Pro Se

Plaintiff(s):

Edward M. Wolkowitz

Represented By
Juliet Y Oh
Richard P Steelman Jr

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 4, 2021

Hearing Room 1545

11:00 AM

CONT... GL Master Inc

Chapter 7

Trustee(s):

Edward M Wolkowitz (TR)

Represented By
Juliet Y Oh

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 4, 2021

Hearing Room 1545

11:00 AM

2:17-19548 Layfield & Barrett, APC

Chapter 11

#10.00 Cont'd Status Conference re: Chapter 11 Case
fr. 9/19/17, 10/17/17, 4/17/18, 5/1/18, 7/10/18, 9/18/18,
10/26/18, 12/6/18, 12/18/18, 2/5/19, 03/05/19, 04/02/19
04/30/19, 06/04/19, 7/30/19, 9/10/19, 10/1/19, 10/15/19,
11/12/19, 12/10/19, 12/17/19, 2/18/20, 3/3/20, 03/31/20,
8/4/20, 9/1/20, 9/15/20, 12/8/20

Docket 323

Tentative Ruling:

Tentative Ruling for 5/4/21:

Continue as set forth below. Appearances are not required on 5/4/21.

(1) Current matters

(a) Combined Status Conference

This Status Conference involves two related bankruptcy cases and associated matters: (a) *In re Layfield & Barrett, APC*, Case No. 2:17-bk-19548-NB ("L&B"); (b) *In re Layfield*, Case No. 2:18-bk-15829-NB ("Lay-Invol."); (c) *Pimentel v. Layfield et al*, Case No. 2:19-ap-01069-NB ("Pimentel Adv."), (d) *Pachulski v. Layfield*, Case No. 2:19-ap-01071-NB ("Pachulski Adv.").

This Court has no issues to raise *sua sponte* at this time. The tentative ruling is to continue all matters on today's calendar to the continued date set forth below.

(2) Deadlines/dates. The L&B case was filed as an involuntary chapter 7 on 8/3/17 and converted to chapter 11 on 8/11/17 (L&B dkt. 25). The Lay-Invol case was filed as an involuntary chapter 7 case on 5/21/18 and an order for relief was entered on 12/12/18 (Lay-Invol dkt. 160, 161).

(a) L&B Bar date: 2/5/18 (timely served, L&B dkt. 133, 157)

(b) Lay-Invol Bar date: 4/12/19 (timely served, Lay-Invol dkt.180)

(c) L&B Plan/Disclosure Statement*: TBD. Do not file or serve until further order of this court.

(d) Continued status conference: 8/3/21 at 11:00 a.m. *Brief* status report due 7/20/21.

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11:00 AM

CONT... Layfield & Barrett, APC

Chapter 11

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Layfield & Barrett, APC

Pro Se

Movant(s):

Layfield & Barrett, APC

Pro Se

Trustee(s):

Richard Pachulski (TR)

Represented By
Malhar S Pagay
James KT Hunter

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 4, 2021

Hearing Room 1545

11:00 AM

2:18-15829 Philip James Layfield

Chapter 7

#11.00 Cont'd Status Conference re: Chapter 7 Involuntary
fr. 07/17/18, 08/14/18, 09/04/18, 09/18/18, 10/26/18,
12/6/18, 12/18/18, 02/05/19, 03/05/19, 04/02/19,
04/30/19, 06/04/19, 7/30/19, 10/1/19, 10/15/19, 11/12/19,
12/10/19, 02/18/20, 3/3/20, 03/31/20, 8/4/20, 12/8/20

Docket 1

Tentative Ruling:

Tentative Ruling for 5/4/21:

Please see the tentative ruling for the status conference in the *Layfield & Barrett* case (Calendar No. 10, 5/4/21 at 11:00 a.m.).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Philip James Layfield

Represented By
Anthony M Solis

Trustee(s):

Wesley H Avery (TR)

Represented By
Jeffrey I Golden
Faye C Rasch
Beth Gaschen
Ryan W Beall

**United States Bankruptcy Court
Central District of California
Los Angeles
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Hearing Room 1545

11:00 AM

2:18-15829 Philip James Layfield

Chapter 7

Adv#: 2:19-01069 Pimentel v. Layfield et al

#12.00 Cont'd Status Conference re: Complaint Against Dischargeability
1) Declaratory Relief and 2) Fraudulent Transfer / Concealment
fr. 5/21/19, 06/04/19, 7/30/19, 10/1/19, 03/31/20, 8/4/20,
12/8/20

Docket 1

Tentative Ruling:

Tentative Ruling for 5/4/21:

Please see the tentative ruling for the status conference in the *Layfield & Barrett* case (Calendar No. 10, 5/4/21 at 11:00 a.m.).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Philip James Layfield

Represented By
Anthony M Solis

Defendant(s):

Philip J Layfield

Pro Se

WESLEY Howard AVERY

Pro Se

Affeld Grivakes LLP

Represented By
Damion Robinson

Plaintiff(s):

Rodney A Pimentel

Represented By
Yana G Henriks

Trustee(s):

Wesley H Avery (TR)

Represented By
Jeffrey I Golden

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, May 4, 2021

Hearing Room 1545

11:00 AM

CONT...

Philip James Layfield

Chapter 7

Faye C Rasch
Beth Gaschen
Ryan W Beall

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, May 4, 2021

Hearing Room 1545

11:00 AM

2:18-15829 Philip James Layfield

Chapter 7

Adv#: 2:19-01071 Richard M. Pachulski, Chapter 11 Trustee of the Ba v. Layfield

#13.00 Cont'd Status Conference re: Complaint to Determine the Non-Dischargeability of Certain Debts Owed by Philip James Layfield to Richard M. Pachulski, Chapter 11 Trustee of the Bankruptcy Estate of Layfield & Barrett, APC.
fr. 05/21/19, 11/5/19, 03/31/20, 8/4/20, 12/8/20

Docket 1

Tentative Ruling:

Tentative Ruling for 5/4/21:

Please see the tentative ruling for the status conference in the *Layfield & Barrett* case (Calendar No. 10, 5/4/21 at 11:00 a.m.).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Philip James Layfield

Represented By
Anthony M Solis

Defendant(s):

Philip James Layfield

Pro Se

Plaintiff(s):

Richard M. Pachulski, Chapter 11

Represented By
James KT Hunter

Trustee(s):

Wesley H Avery (TR)

Represented By
Jeffrey I Golden
Faye C Rasch
Beth Gaschen

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 4, 2021

Hearing Room 1545

11:00 AM

2:20-19018 Dedra M Chachere-Hunt

Chapter 7

#14.00 Hrg re: Application to Employ Roquemore, Pringle & Moore, Inc.
as General Counsel as of January 28, 2021

Docket 49

Tentative Ruling:

Overrule the Debtor's opposition (dkt. 53) and grant the application for the reasons stated in the application and reply papers (dkt. 49, 54). Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Dedra M Chachere-Hunt

Represented By
Kahlil J McAlpin

Trustee(s):

John P Pringle (TR)

Represented By
Michelle A Marchisotto

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, May 4, 2021

Hearing Room 1545

1:00 PM

2:20-15954 John Martin Kennedy

Chapter 11

**#1.00 Hrg re: Motion of Debtor for Third Order Extending the Debtor's
Exclusive Period to Obtain Acceptance of His Plan**

Docket 305

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 2.1,
5/4/21 at 1:00 p.m.).

Party Information

Debtor(s):

John Martin Kennedy

Represented By
Sandford L. Frey
Dennette A Mulvaney

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1575 Calendar**

Tuesday, May 4, 2021

Hearing Room 1575

1:00 PM

2:20-15954 John Martin Kennedy

Chapter 11

#2.00 Cont'd hrg re: Objection to Claim Number 2 Filed by Yunuen Campos; and Motion to (1) Determine the Amount of the Claim of Yunuen Campos Pursuant to Bankruptcy Code § 506(a) and FRBP 3012, or (2) in the Alternative Motion to Estimate the Claim of Yunuen Campos fr. 3/23/21, 4/27/21

Docket 257

Tentative Ruling:

Tentative Ruling for 5/4/21:

Please see the tentative ruling for the status conference (Calendar No. 2.1, 5/4/21 at 1:00 p.m.).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

John Martin Kennedy

Represented By

Sandford L. Frey

Dennette A Mulvaney

Movant(s):

John Martin Kennedy

Represented By

Sandford L. Frey

Dennette A Mulvaney

**United States Bankruptcy Court
Central District of California
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Hearing Room 1545

1:00 PM

2:20-15954 John Martin Kennedy

Chapter 11

#2.10 Cont'd Status Conference re: Chapter 11 Case
fr. 7/14/20, 7/28/20, 8/18/20, 9/15/20, 9/29/20,
10/27/20, 11/10/20, 12/1/20, 12/8/20, 12/22/20,
01/26/21,3/23/21, 4/6/21, 4/27/21

Docket 1

Tentative Ruling:

Tentative Ruling for 5/4/21:

Continue as set forth below. Appearances are not required on 5/4/21.

(1) Current issues

(a) Debtor's motion to extend exclusivity period to obtain acceptance of plan (dkt. 305), no opposition on file

The tentative ruling is to grant the extension motion and extend the deadline for Debtor to gain acceptance of the plan to 6/28/21.

(b) Debtor's objection to Claim 2 filed by Yunuen Campos (dkt. 257), Ms. Campos' opposition (dkt. 261), Debtor's reply (dkt. 266)

This Court has largely sustained this claim objection, except with respect to any outstanding accounting issues, as to which this Court directed the parties to meet and confer. The tentative ruling is to continue this hearing, to be contemporaneous with the continued status conference (see part "(2)" of this tentative ruling, below). If the parties have not resolved any disputes about the accounting, the tentative ruling is to set a **deadline of 5/25/21** for Debtor to file and serve a supplemental brief and declaration(s) setting forth Debtor's understanding of the remaining issues and his evidence in support of his position, with a **deadline of 6/1/21** for Ms. Campos' response, and **6/8/21** for Debtor's reply.

(c) Campos v. Kennedy (Adv. No. 2:20-ap-01626-NB)

The tentative ruling is to dismiss this adversary proceeding as moot. Previously this adversary proceeding was stayed so that Debtor could attempt to confirm his proposed Plan (with all rights reserved if Debtor failed to obtain confirmation of that Plan). See dkt. 247, Ex.1, at PDF pp. 5-6 (Section (1)

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CONT... **John Martin Kennedy**

Chapter 11

(b)). Now this Court has issued an oral order confirming the Plan (at the hearing on 4/27/21).

Under the Plan, the parties' executory contract embodied in the Mediation Term Sheet is assumed and, contrary to Ms. Campos' position in this adversary proceeding, the Plan treats her claim as an unsecured claim (consistent with the Mediation Term Sheet, which neither creates nor recognizes any alleged security interests in future accounts receivable). Accordingly, there is no point in determining whatever Ms. Campos' rights would have been if the Plan had not been confirmed, and it appears that there is nothing left to address in this adversary proceeding.

Note: Nothing in the foregoing tentative ruling is intended to cut off or prejudice whatever rights Ms. Campos might have if this Court's orders were to be reversed or modified by any appellate tribunal. As stated on the record at the confirmation hearing on 4/27/21, the Plan does not purport to cut off or prejudice the issues that are subject to the appellate proceedings.

Proposed orders: Debtor is directed to proposed orders on each of the three foregoing matters via LOU within 7 days after the hearing date, and attach a copy of the tentative ruling in part "(1)(c)" to the order addressing that issue, all subject to Ms. Campos' rights to contest the tentative rulings and any changes that might be ordered at the hearing. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 6/30/20.

(a) Bar date: 10/2/20 (dkt. 39) (timely served, dkt. 52)

(b) Procedures order: dkt.4 (timely served, dkt.18).

(c) Plan (dkt. 250, 251, 265)/Disclosure Statement* (dkt. 251): Plan confirmed at hearing held 4/27/21 at 1:00 p.m.

(d) Post-confirmation status conference: 6/15/21 at 1:00 p.m. No status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

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CONT...

John Martin Kennedy

Chapter 11

are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

John Martin Kennedy

Represented By
Sandford L. Frey
Dennette A Mulvaney

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Hearing Room 1545

1:00 PM

2:20-15954 John Martin Kennedy

Chapter 11

Adv#: 2:20-01626 Campos v. Kennedy

#2.20 Cont'd Status Conference re: Complaint for Declaratory and Injunctive Relief re: Determination of Validity, Priority or Extent of Interest in Property
fr. 12/1/20, 1/26/21, 4/27/21

Docket 1

Tentative Ruling:

Tentative Ruling for 5/4/21:

Please see the tentative ruling for the status conference (Calendar No. 2.1, 5/4/21 at 1:00 p.m.).

Tentative Ruling for 4/27/21:

Please see the tentative ruling for the main case status conference (Calendar No. 24, 4/27/21 at 1:00 p.m.).

Tentative Ruling for 1/26/21:

Please see the tentative ruling for the main case status conference (Calendar No. 33, 1/26/21 at 1:00 p.m.).

Tentative Ruling for 12/1/20:

Appearances required.

This Court has reviewed the parties' joint status report (adv.dkt. 4) and the other filed documents and records in this adversary proceeding.

(A) Current issues

Defendant (Debtor) suggests in the status report that this Court stay all proceedings in this adversary proceeding, because his forthcoming chapter 11 plan may moot some or all issues in this adversary proceeding. Plaintiff (Ms. Campos) suggested in the status report that such issues must be decided before any plan can be confirmed.

The parties are directed to clarify the following issues. (1) Does

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CONT...

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Chapter 11

Plaintiff (Ms. Campos) assert that, under nonbankruptcy law, the assignment order created an absolute assignment in Debtor's accounts receivable ("A/R"), or a security interest, or both?

(2) Does she assert those things not only as to (a) A/R embodied in checks that had been issued prepetition (from medical insurers and Medicare prepetition), but also (b) A/R arising from services that had been performed prepetition, but as to which checks had not been issued as of the petition date (*i.e.*, as to which such an interest arguably had not attached as of the petition date), and also (c) A/R arising from services that had yet to be performed as of the petition date? Phrasing these last two issues differently, is Plaintiff asserting that, under nonbankruptcy law, 25% of any checks that had yet to be cut, and 25% of any A/R that had yet to generated by Debtor's postpetition labor, belongs to Plaintiff, regardless of any interest of, for example, a different judgment creditor who obtained a judicial lien against the A/R and also claimed the same 25%?

(3) Under the Bankruptcy Code, is Plaintiff asserting that her alleged interest in each of the three types of A/R described above is superior to the interests of the bankruptcy estate, other creditors, and any exemptions that Debtor may assert in the A/R?

Depending on Plaintiff's responses, Defendant (Debtor) is directed to address how he can propose a chapter 11 plan without resolving the issues raised in this adversary proceeding. Does Defendant (Debtor) anticipate proposing payment terms (*e.g.*, payment over a time period consistent with the parties' Term Sheet) without resolving whether such payment is secured by the A/R, or whether Plaintiff (Ms. Campos) owns the A/R? Is it possible to confirm a plan that leaves such issues unresolved?

The tentative ruling is to direct the parties to address on a preliminary basis how the foregoing issues bear on whether or not to stay these proceedings. Then the tentative ruling is to continue this matter as set forth below, so that all of these issues can be better addressed after Debtor has proposed a chapter 11 plan.

(B) Standard requirements

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

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CONT... John Martin Kennedy

Chapter 11

(1) Venue/jurisdiction/authority

The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this Bankruptcy Court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. *See generally Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). *See generally In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation

[Intentionally omitted: it appears that mediation may be unproductive at this time.]

(3) Deadlines

This adversary proceeding has been pending since 9/23/20.

Joint Status Report: 1/19/21.

Continued status conference: 1/26/21 at 1:00 p.m.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the

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CONT... John Martin Kennedy Chapter 11

first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

John Martin Kennedy

Represented By
Sandford L. Frey
Dennette A Mulvaney

Defendant(s):

John Martin Kennedy

Represented By
Sandford L. Frey

Plaintiff(s):

Yunuen Campos

Represented By
Lauren A Dean

**United States Bankruptcy Court
Central District of California
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Hearing Room 1545

1:00 PM

2:20-19443 Joshuaville, LLC

Chapter 11

#3.00 Hrg re: Motion To Compel The Debtor To Properly
Assume Or Reject Contract Or Dismiss Case

Docket 66

Tentative Ruling:

Please see the tentative ruling for the Status Conference (Calendar No. 4,
5/4/21 at 1:00 p.m.).

Party Information

Debtor(s):

Joshuaville, LLC

Represented By
Leslie A Cohen

Trustee(s):

Moriah Douglas Flahaut (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Courtroom 1545 Calendar**

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1:00 PM

2:20-19443 Joshuaville, LLC

Chapter 11

#4.00 Cont'd Status Conference re: Chapter 11 Case
fr. 11/10/20, 12/22/20, 1/26/21, 03/02/21, 03/23/21,
4/6/21, 4/27/21

Docket 1

Tentative Ruling:

Tentative Ruling for 5/4/21:

Appearances required.

(1) Current issues

(a) Motion of March 1 LLC and Marchlife3, LLC's (the "March Entities") to compel Debtor to assume or reject contract, or alternatively for dismissal of case (the "Deadline Motion," dkt. 66); Debtor's Opposition (dkt. 69); March Entities' Reply (dkt. 70)

Although Debtor is correct that the March Entities' legal analysis is thin, the tentative ruling is that the March Entities have presented sufficient arguments and evidence that, unless Debtor assumes or rejects the Participation Agreement very soon, the March Entities will not be able to meet their own deadline of 9/19/21 (the "Third Party Deadline") to make certain mandatory improvements, under their Disposition & Development Agreement with a governmental or quasi-governmental "Authority" for development of part of the former March Air Force Base (the "Development Agreement"). See Neimann Decl. (dkt. 66), p. 7:8–12, and Ex.A pp.12 and 13 (Participation Agreement) recitals and section 1 (at PDF p. 15) and pp.26 & 29 (schedule of payments, and "Horizontal Improvements" budget, Ex.B&E to Participation Agreement) (at PDF pp. 28 & 31). The March Entities have provided evidence that they need an estimated \$800,000 of funding from Debtor or, in the alternative, from another source, far enough in advance of that Third Party Deadline to make the improvements, or else they risk losing the entire project. Dkt. 66, pp. 7:24–8:3.

Debtor provides no contrary evidence. True, Debtor's proposed Plan (the "Plan," dkt. 61) provides for assumption of the participation agreement and an eventual cure. But the proposed time for any cure payment appears to be the later of (i) the Effective Date (defined to be 6 months after

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CONT... Joshuaville, LLC

Chapter 11

confirmation), if Debtor has sold the interests by then, or alternatively (ii) any later date when Debtor has the funds to make cure payments, subject to the apparent condition that Debtor will only make such payments if it "sells its interests under the Participation Agreement within 3 years after the Effective Date." See Plan, dkt. 61, sections "A," "C," 2.03, 4.01, 6.01, and 8.01. The tentative ruling is that this is insufficient for multiple reasons.

First, the March Entities point to evidence (Debtor's own Monthly Operating Reports and other bankruptcy papers) that Debtor has very few funds or ability to generate income, and therefore Debtor lacks any obvious ability to make the cure payments, except for a speculative prospect of finding investors. Again, Debtor provides no contrary evidence. The tentative ruling is that Debtor has not provided "adequate assurance" that it will be able to cure the default, as required by 11 U.S.C. 365(b)(1)(A) and 1123(b)(2).

Second, the tentative ruling is that, once the Third Party Deadline has expired, Debtor cannot "unring the bell" and belatedly cure its own failure to fund the required improvements before that deadline. See *generally In re Claremont Acquisition Corp.*, 113 F.3d 1029, 1033-35 (9th Cir. 1997) (debtor's failure to operate business for two weeks was historical fact that could not be cured). This means that, based on the evidence provided by the March Entities, Debtor must provide very strong assurances very soon that it will be able to provide the funds in sufficient time for the required improvements to be constructed prior to the Third Party Deadline, or else the March Entities will be left with too little time to make other arrangements to obtain such funding and construct the necessary improvements before the Third Party Deadline.

Third, even supposing that Debtor had presented evidence of some leeway in the Third Party Deadline under the Development Agreement (which Debtor has not presented), the tentative ruling is that Debtor's proposed time line is not sufficient to "promptly" cure within the meaning of 11 U.S.C. 365(b)(1)(A) (emphasis added). Again, the March Entities have provided evidence of what "prompt[]" means in the circumstances of this case - *i.e.*, sufficient to assure that the March Entities will not lose their own rights under the Development Agreement - and Debtor has not provided any evidence to the contrary.

Fourth, Debtor's apparent loophole - that it will only pay the cure payment if it can sell its interests under the Participation Agreement within three years after the Effective Date - appears to undermine any ability to

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CONT... Joshuaville, LLC

Chapter 11

provide "adequate assurance" of a future cure. 11 U.S.C. 365(b)(1)(A) (emphasis added).

For each of the foregoing alternative reasons, the tentative ruling is to grant the Deadline Motion, and to set a **deadline of 6/1/21** for Debtor to (x) obtain a ruling from this Court authorizing it to assume its Participation Agreement with the March Entities and (y) actually fund the estimated \$800,000 of necessary improvements, or else (z) reject the Participation Agreement. The tentative ruling is that there is cause to shorten time on any motion to assume (or reject) the Participation Agreement, both because of the above 6/1/21 deadline and because Debtor would need to raise a lot of money quickly in order to meet that deadline. See Rules 6006, 9006(c) & (d), 9013, 9014, 9036.

The tentative ruling is to shorten the deadlines such that, if Debtor can **file and serve an assumption or rejection motion by 5/18/21**, that motion can be self-calendared concurrent with the continued status conference (see below), with an **opposition deadline of 5/24/21** and **any reply due 5/27/21**.

Nothing in the foregoing tentative rulings should be construed to eliminate any claims (if any) that survive the arbitration award (dkt. 66, Ex.B, at PDF pp.37 *et seq.*). For example, Debtor retains all claims or defenses that might arise from its assertion that the March Entities have prevented Debtor from performing, by failing to provide Debtor with allegedly essential information to be able to attract investors. See, *e.g.*, Plan (dkt. 61), at PDF pp. 2-3. Likewise, the March Entities retain all claims or defenses that might arise from their assertions (and any preclusive findings or rulings in the arbitration award) that Debtor made material false statements in the inception of the participation agreement or thereafter. All rights are reserved as to any claims, counterclaims, and defenses that are not barred by principles of preclusion or other doctrines.

Proposed order: The March Entities are directed to lodge a proposed order on the Deadline Motion via LOU within 7 days after the hearing date and attach a copy of this tentative ruling, thereby adopting it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed, as a Subchapter V case, on 10/19/20.

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- (a) Bar date: 12/28/20 per General Order 20-01 (70 days after petition date in Subchapter V cases) (DO NOT SERVE any notice: one has already been sent, see dkt.9).
 - (b) Procedures order: dkt.4 (timely served, dkt.6).
 - (c) Amended Plan (dkt. 61): Confirmation hearing 6/15/21 at 1:00 p.m. (dkt. 63)
 - (d) Continued status conference: 6/1/21 at 1:00 p.m. No written status report is required.
- *Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Joshuaville, LLC

Represented By
Leslie A Cohen

Trustee(s):

Moriah Douglas Flahaut (TR)

Pro Se

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2:19-24099 Jeremy Caleb Gardiner

Chapter 11

**#5.00 Hrg re: Motion in Chapter 11 Case for the Entry
of: An Order Closing Case on Interim Basis**

Docket 129

Tentative Ruling:

Please see the tentative ruling for the Status Conference (Calendar No. 6,
5/4/21 at 1:00 p.m.).

Party Information

Debtor(s):

Jeremy Caleb Gardiner

Represented By
Matthew D. Resnik
Roksana D. Moradi-Brovia

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2:19-24099 Jeremy Caleb Gardiner

Chapter 11

#6.00 Status Conference re: Post confirmation
fr. 12/17/19, 1/28/20, 3/3/20, 5/12/20, 7/14/20,
9/1/20, 9/29/20, 10/6/20, 10/27/20, 11/10/20,
12/8/20, 2/9/21, 4/6/21

Docket 6

Tentative Ruling:

Tentative Ruling for 5/4/21:

Appearances are not required.

(1) Current issues

(a) Debtor's Motion for the Entry of an Order Closing the Case on an Interim Basis (dkt. 129), no opposition is on file; see also Status Report (dkt. 131)

The tentative ruling is to grant the motion and set no further status conferences at this time.

Proposed order: Debtor is directed to lodge a proposed order on the foregoing motion via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 12/2/19.

(a) Bar date: 2/17/20 (dkt. 22; timely served, dkt. 23)

(b) Procedures order: dkt. 5 (timely served, dkt. 9)

(c) Plan/Disclosure Statement (dkt. 99, 100)*: Plan confirmed (dkt. 114)

(d) Post-confirmation status conference: N/A.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are

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appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Jeremy Caleb Gardiner

Represented By

Matthew D. Resnik

Roksana D. Moradi-Brovia

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2:20-20909 VEEJ Corp

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#7.00 Cont'd hrg re: Motion for relief from stay [UD]
1/26/21, 2/9/21, 03/23/21, 4/6/21

MOSS ATKINSON FAMILY TRUST
vs
DEBTOR

Docket 30

Tentative Ruling:

Tentative Ruling for 5/4/21:

Please see the tentative ruling for the Status Conference (Calendar No. 8, 5/4/21 at 1:00 p.m.).

Tentative Ruling for 4/6/21:

Please see the tentative ruling for the Status Conference (Calendar No. 16, 4/6/21 at 1:00 p.m.).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

VEEJ Corp

Represented By
Jeffrey S Shinbrot

Movant(s):

Moss Atkinson Family Trust

Represented By
Giovanni Orantes

Trustee(s):

Susan K Seflin (TR)

Pro Se

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2:20-20909 VEEJ Corp

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#8.00 Cont'd Status Conference re: Chapter 11 Case
fr. 1/5/21, 1/26/21, 03/02/21, 3/23/21, 4/6/21

Docket 1

Tentative Ruling:

Tentative Ruling for 5/4/21:

Appearances required.

(1) Current issues

(a) Motion of Moss Atkinson Family Trust ("Lessor") for Relief from Stay ("R/S Motion," dkt. 30), Debtor's Opposition (dkt. 45), Lessor's Reply (dkt. 50), Lessor's Surreply (dkt. 79), Debtor's response to Surreply (dkt. 80)

The tentative ruling is to strike both Lessor's surreply and Debtor's response, because neither was authorized and neither presents sufficient grounds for retroactive authorization. Alternatively, the tentative ruling is that even if this Court were not to strike those papers, they have no bearing on the R/S Motion because this Court will not take into consideration mediation matters and settlement communications.

This hearing has been continued multiple times based on the parties' stipulations; but the docket does not reflect that the parties have been able to reach any agreement. There is no tentative ruling, but the parties should be prepared to address the arguments and allegations in their filed papers.

(b) Debtors' proposed Plan (dkt. 68)

All of the issues previously noted by this Court continue to apply. See Tentative Ruling for 4/6/21 (reproduced below). But any disposition of the disputes with Lessor is likely to determine much what must be included in any amended Plan, so there is no tentative ruling regarding the draft Plan or any amendments to it.

(2) Deadlines/dates. This case was filed on 12/13/20. Debtor elected to proceed under Subchapter V.

(a) Bar date: 2/22/21 per General Order 20-01 (70 days after petition date in Subchapter V cases) (DO NOT SERVE any notice: one

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has already been sent, see dkt.23).

(b) Procedures order: dkt. 3 (timely served, dkt. 6).

(c) Plan (dkt. 68): TBD.

(d) Continued status conference: 6/1/21 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 4/6/21:

Appearances required by counsel for the debtor.

(1) Current issues

(a) Motion of Moss Atkinson Family Trust ("Lessor") for Relief from Stay (dkt. 30), Debtor's Opposition (dkt. 45), Lessor's Reply (dkt. 50)

The Court has continued the hearing on Lessor's motion from 1/26/21 to 2/9/21, 3/2/21, 3/23/21, and now this current hearing, based on the stipulations filed by the parties. See dkts. 53, 57, 63, 69. There is no tentative ruling, but the parties should be prepared to discuss the status of their negotiations regarding the premises at 24901 W. Avenue Stanford, in Valencia, California (the "Premises").

(b) Debtors' proposed Plan (dkt. 68)

The tentative ruling is to address the following issues with Debtor's counsel and set a deadline to file an amended proposed Plan. The issues to

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be addressed are:

Chapter 11

(i) Background

Based solely on Debtor's bankruptcy schedules, Debtor appears solvent. Total assets are listed at \$1,036,013.07 and total claims at \$980,585.66. But, as set forth below, that appears to be inaccurate.

As for assets, Debtor's bankruptcy Schedule A/B lists \$934,283.07 in accounts receivable, with no deduction for doubtful or uncollectible accounts, despite the fact that those accounts are listed as being over 90 days old. Debtor's only other listed assets are \$1,730.00 in the bank and a claim against Lessor estimated at \$100,000.00.

As for liabilities, Debtor apparently has two secured claims aggregating just under \$90,000 or just under \$140,000 - it is unclear which. See Plan (dkt. 68), p. 16 (\$79,404.04 + \$9,625.68 = \$89,029.72 secured claims) and *compare id.* at p. 31:12 (\$139,039 secured claims). Bankruptcy Schedule E/F lists \$934,073.07 in unsecured claims, and the Plan lists \$1,068,892.00. The principal unsecured claims listed on Schedule E/F include over \$500,000.00 in unpaid shipping charges and, in line 3.3, Lessor's claim at \$398,686.20 (purportedly without offset, although that appears to be inconsistent with the alleged \$100,000.00 claim against Lessor and the Plan lists Lessor's claim at \$541,474.20, which is disputed by Debtor).

As this Court understands Debtor's background, its business previously included storage at the Premises of tens of thousands of original motion picture "films in the can," weighing approximately 50 pounds each, which major film studios entrusted to Debtor. The Premises allegedly have unique and special qualities for that purpose. There is no explanation whether Debtor is still engaged in other lines of business, or the possible value of any such ongoing businesses, by the Plan implies that there is no such value, and the Plan proposes to liquidate Debtor.

Debtor's bankruptcy Schedule G lists no executory contracts for storage of the films, so apparently Debtor has spun off that business. In 2019 Debtor formed HFC Media Services Corporation ("Affiliate"), which promised to take over all obligations under the lease of the Premises including back rent (for an estimated total obligation of \$935,283.07) in exchange for a license to use the Premises, the right to Debtor's security deposit of \$395,855.80, \$70,000 in cash, and, apparently, approximately \$395,885.80 of accounts receivable transferred to it by Debtor. Under Affiliate's Agreement

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with Debtor, if rights to the Premises are terminated or lost then Affiliate is obligated to pay Debtor \$400,000.00.

In actuality, despite the alleged value of Debtor's accounts receivable as stated in Schedule A/B, Debtor's Plan appears to treat those accounts as having no value in excess of the liens against them, and Debtor's Plan states that its primary asset is the license Agreement with Affiliate, pursuant to which Affiliate has already paid \$150,771.98 to Lessor on Debtor's behalf (not including rent payments). That appears to be deducted from the presumptive \$400,000.00 that will be owed to Debtor by Affiliate.

Debtor calculates that this leaves a balance owed by Affiliate, once the lease is terminated, of \$249,228.05, less any payments that Affiliate pays to Lessor on Debtor's behalf through the Effective Date. Debtor's Plan proposes that Affiliate will pay Debtor that balance in 36 monthly installments commencing on the first month following the Effective Date.

Those payments will be used to fund an estimated \$50,000.00 in administrative expenses, payment of the secured claims with no interest, and then a *pro rata* distribution to nonpriority unsecured claims. Debtor's liquidation analysis and projection of distributions under the Plan states: "[a] ssuming a liquidation value of \$250,000 ... Class 3 [unsecured] claims should expect to receive approximately ... 10% of the allowed amount of their respective claims" under the Plan and approximately 3% in a hypothetical chapter 7 liquidation. Plan (dkt. 68), p. 31:10-16.

Some of the forgoing information is not in the Plan. It is derived from other filed documents. See *generally* Stat.Rpt. (dkt.20) at PDF p.13:1-14; Bankruptcy Schedules (dkt. 19) (*passim*) and Statement Of Financial Affairs ("SOFA") (dkt. 19), p.3, line 13.1 (PDF p.18). See *also* Plan (dkt. 68), Part IV.A. (history of Debtor), pp. 8:5-9:5 & 10:19-28; *and* Agreement between Debtor and Affiliate (Ex.1 to Plan, dkt. 68, at PDF pp. 43-46).

Debtor and Lessor have been attempting to settle their claims, but without success so far. Affiliate apparently has been paying Debtor's monthly postpetition leasehold obligations, which have been set off against the anticipated \$400,000.00 obligation of Affiliate to Debtor. Debtor's proposed Plan includes the following provision:

V. Retention of Premises to Accommodate Orderly Relocation of Films.

[Affiliate] shall retain its rights to occupy the [Premises] for a period of six-months after the Effective Date to accommodate the

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relocation of third-party films that are located at the premises and shall pay [Lessor] the amount of \$26,050.00 on the 21st day of each month during this period. [Plan (dkt.68), p.29:12-17]

Based on the foregoing background, and this Court's review of the Plan and other filed documents, Debtor is directed to address the following issues at the hearing, and Lessor or other parties in interest are invited to do the same.

(ii) Lease of Premises

The Plan does not specify the legal basis for the above-quoted provision regarding post-confirmation occupancy of the Premises. Is Debtor proposing a deferred rejection of the lease under 11 U.S.C. 365? This might be a confirmation issue; but before the expense and possible confusion of mailing out a proposed Plan to all creditors, it makes sense to address whether there are any "gating" issues.

(iii) Notice to film owners?

This Court recognizes that the major film studios that own the films located at the Premises might not qualify as creditors of Debtor (although, without knowing the parties' contractual arrangements that is unclear). But the tentative ruling is that Debtor must provide them with notice of the confirmation hearing so that they have an opportunity to be heard if they believe that they are creditors or other parties in interest whose rights might be affected by the Plan.

(iv) Cost of moving film cans?

The Plan does not appear to address the costs of moving the film cannisters. See Plan (dkt. 68), p. 31:10-16. Will that be borne entirely by Affiliate?

(v) Other

The foregoing "background" section includes some issues that are not addressed in Debtor's summary of its business, liquidation analysis, and projections. For example, (w) who owes Debtor the dollar amounts included in Debtor's accounts receivable, and what are the chances of collection; (x) what is the actual dollar amount of secured claims; (y) what happened to Debtor's other lines of business, and what are the potential revenues and

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values of those businesses (if any); and (z) what are the details of any transaction in which Debtor spun off its film storage business to Affiliate (*i.e.*, how does Debtor analyze that transaction from the perspective of a potential claim for voidable transfer)? The tentative ruling is that the proposed Plan must be amended to address those things.

In addition, Debtor is cautioned that various Plan provisions might exceed this Court's authority, or might not be approved for other reasons, even in the absence of any objection by parties in interest. For example, this Court anticipates reviewing carefully the Plan's proposed exculpation, retention of claims against creditors that are not specifically described, and prohibition on new or amended claims by creditors, etc. See Plan (dkt. 68), pp.20:24-22:6, 26:8-14, 27:14-28, 28:13-20.

(vi) Conclusion as to Plan

The tentative ruling is to set a **deadline of 4/20/21** for Debtor to file an amended proposed Plan (but NOT serve it on anyone except Lessor and the UST).

(2) Deadlines/dates. This case was filed on 12/13/20. Debtor elected to proceed under Subchapter V.

- (a) Bar date: 2/22/21 per General Order 20-01 (70 days after petition date in Subchapter V cases) (DO NOT SERVE any notice: one has already been sent, see dkt.23).
- (b) Procedures order: dkt. 3 (timely served, dkt. 6).
- (c) Plan (dkt. 68): see above.
- (d) Continued status conference: 5/4/21 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov

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instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 3/23/21 (revised as noted below):
Appearances required.

(1) Current issues

(a) Motion of Moss Atkinson Family Trust ("Lessor") for Relief from Stay (dkt. 30), Debtor's Opposition (dkt. 45), Lessor's Reply (dkt. 50)

[Original tentative ruling:] The Court has continued the hearing on Lessor's motion from 1/26/21 to 2/9/21, 3/2/21 and now this current hearing, based on the stipulations filed by the parties. See dkts. 53, 57, 63. There is no tentative ruling, but the parties should be prepared to discuss the status of their negotiations regarding the premises at 24901 W. Avenue Stanford, in Valencia, California (the "Premises").

[Revised ruling:] This matter has been continued to 4/6/21 at 1:00 p.m. by further stipulation of the parties and this Court's order thereon. See dkt. 69, 71.

(b) Debtors' proposed Plan (dkt. 68)

The tentative ruling is to address the following issues with Debtor's counsel and set a deadline to file an amended proposed Plan. The issues to be addressed are:

(i) Background

Based solely on Debtor's bankruptcy schedules, Debtor appears solvent. Total assets are listed at \$1,036,013.07 and total claims at \$980,585.66. But, as set forth below, that appears to be inaccurate.

As for assets, Debtor's bankruptcy Schedule A/B lists \$934,283.07 in accounts receivable, with no deduction for doubtful or uncollectible accounts, despite the fact that those accounts are listed as being over 90 days old. Debtor's only other listed assets are \$1,730.00 in the bank and a claim against Lessor estimated at \$100,000.00.

As for liabilities, Debtor apparently has two secured claims aggregating just under \$90,000 or just under \$140,000 - it is unclear which. See Plan (dkt. 68), p. 16 (\$79,404.04 + \$9,625.68 = \$89,029.72 secured claims) *and*

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compare id. at p. 31:12 (\$139,039 secured claims). Bankruptcy Schedule E/F lists \$934,073.07 in unsecured claims, and the Plan lists \$1,068,892.00. The principal unsecured claims listed on Schedule E/F include over \$500,000.00 in unpaid shipping charges and, in line 3.3, Lessor's claim at \$398,686.20 (purportedly without offset, although that appears to be inconsistent with the alleged \$100,000.00 claim against Lessor and the Plan lists Lessor's claim at \$541,474.20, which is disputed by Debtor).

As this Court understands Debtor's background, its business previously included storage at the Premises of tens of thousands of original motion picture "films in the can," weighing approximately 50 pounds each, which major film studios entrusted to Debtor. The Premises allegedly have unique and special qualities for that purpose. There is no explanation whether Debtor is still engaged in other lines of business, or the possible value of any such ongoing businesses, by the Plan implies that there is no such value, and the Plan proposes to liquidate Debtor.

Debtor's bankruptcy Schedule G lists no executory contracts for storage of the films, so apparently Debtor has spun off that business. In 2019 Debtor formed HFC Media Services Corporation ("Affiliate"), which promised to take over all obligations under the lease of the Premises including back rent (for an estimated total obligation of \$935,283.07) in exchange for a license to use the Premises, the right to Debtor's security deposit of \$395,855.80, \$70,000 in cash, and, apparently, approximately \$395,885.80 of accounts receivable transferred to it by Debtor. Under Affiliate's Agreement with Debtor, if rights to the Premises are terminated or lost then Affiliate is obligated to pay Debtor \$400,000.00.

In actuality, despite the alleged value of Debtor's accounts receivable as stated in Schedule A/B, Debtor's Plan appears to treat those accounts as having no value in excess of the liens against them, and Debtor's Plan states that its primary asset is the license Agreement with Affiliate, pursuant to which Affiliate has already paid \$150,771.98 to Lessor on Debtor's behalf (not including rent payments). That appears to be deducted from the presumptive \$400,000.00 that will be owed to Debtor by Affiliate.

Debtor calculates that this leaves a balance owed by Affiliate, once the lease is terminated, of \$249,228.05, less any payments that Affiliate pays to Lessor on Debtor's behalf through the Effective Date. Debtor's Plan proposes that Affiliate will pay Debtor that balance in 36 monthly installments commencing on the first month following the Effective Date.

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Those payments will be used to fund an estimated \$50,000.00 in administrative expenses, payment of the secured claims with no interest, and then a pro rata distribution to nonpriority unsecured claims. Debtor's liquidation analysis and projection of distributions under the Plan states: "[a]ssuming a liquidation value of \$250,000 ... Class 3 [unsecured] claims should expect to receive approximately ... 10% of the allowed amount of their respective claims" under the Plan and approximately 3% in a hypothetical chapter 7 liquidation. Plan (dkt. 68), p. 31:10-16.

Some of the forgoing information is not in the Plan. It is derived from other filed documents. See *generally* Stat.Rpt. (dkt.20) at PDF p.13:1-14; Bankruptcy Schedules (dkt. 19) (*passim*) and Statement Of Financial Affairs ("SOFA") (dkt. 19), p.3, line 13.1 (PDF p.18). See *also* Plan (dkt. 68), Part IV.A. (history of Debtor), pp. 8:5-9:5 & 10:19-28; *and* Agreement between Debtor and Affiliate (Ex.1 to Plan, dkt. 68, at PDF pp. 43-46).

Debtor and Lessor have been attempting to settle their claims, but without success so far. Affiliate apparently has been paying Debtor's monthly postpetition leasehold obligations, which have been set off against the anticipated \$400,000.00 obligation of Affiliate to Debtor. Debtor's proposed Plan includes the following provision:

V. Retention of Premises to Accommodate Orderly Relocation of Films.

[Affiliate] shall retain its rights to occupy the [Premises] for a period of six-months after the Effective Date to accommodate the relocation of third-party films that are located at the premises and shall pay [Lessor] the amount of \$26,050.00 on the 21st day of each month during this period. [Plan (dkt.68), p.29:12-17]

Based on the foregoing background, and this Court's review of the Plan and other filed documents, Debtor is directed to address the following issues at the hearing, and Lessor or other parties in interest are invited to do the same.

(ii) Lease of Premises

The Plan does not specify the legal basis for the above-quoted provision regarding post-confirmation occupancy of the Premises. Is Debtor proposing a deferred rejection of the lease under 11 U.S.C. 365? This might be a confirmation issue; but before the expense and possible confusion of mailing out a proposed Plan to all creditors, it makes sense to address

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whether there are any "gating" issues.

(iii) Notice to film owners?

This Court recognizes that the major film studios that own the films located at the Premises might not qualify as creditors of Debtor (although, without knowing the parties' contractual arrangements that is unclear). But the tentative ruling is that Debtor must provide them with notice of the confirmation hearing so that they have an opportunity to be heard if they believe that they are creditors or other parties in interest whose rights might be affected by the Plan.

(iv) Cost of moving film cans?

The Plan does not appear to address the costs of moving the film cannisters. See Plan (dkt. 68), p. 31:10-16. Will that be borne entirely by Affiliate?

(v) Other

The foregoing "background" section includes some issues that are not addressed in Debtor's summary of its business, liquidation analysis, and projections. For example, (w) who owes Debtor the dollar amounts included in Debtor's accounts receivable, and what are the chances of collection; (x) what is the actual dollar amount of secured claims; (y) what happened to Debtor's other lines of business, and what are the potential revenues and values of those businesses (if any); and (z) what are the details of any transaction in which Debtor spun off its film storage business to Affiliate (*i.e.*, how does Debtor analyze that transaction from the perspective of a potential claim for voidable transfer)? The tentative ruling is that the proposed Plan must be amended to address those things.

In addition, Debtor is cautioned that various Plan provisions might exceed this Court's authority, or might not be approved for other reasons, even in the absence of any objection by parties in interest. For example, this Court anticipates reviewing carefully the Plan's proposed exculpation, retention of claims against creditors that are not specifically described, and prohibition on new or amended claims by creditors, etc. See Plan (dkt. 68), pp.20:24-22:6, 26:8-14, 27:14-28, 28:13-20.

(vi) Conclusion as to Plan

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CONT...

VEEJ Corp

Chapter 11

[Original tentative ruling:] The tentative ruling is to set a **deadline of 4/14/21** for Debtor to file an amended proposed Plan (but NOT serve it on anyone except Lessor and the UST).

[Revised tentative ruling:] The tentative ruling is to address these issues at the continued status conference (see below).

(2) Deadlines/dates. This case was filed on 12/13/20. Debtor elected to proceed under Subchapter V.

(a) Bar date: 2/22/21 per General Order 20-01 (70 days after petition date in Subchapter V cases) (DO NOT SERVE any notice: one has already been sent, see dkt.23).

(b) Procedures order: dkt. 3 (timely served, dkt. 6).

(c) Plan (dkt. 68): see above.

(d) Continued status conference: **[Original tentative ruling:]** 4/27/21 at 1:00 p.m., **[Revised tentative ruling:]** 4/6/21 at 1:00 p.m., concurrent with the continued hearing on the Lessor's motion for relief from the automatic stay. No written status report is required.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

VEEJ Corp

Represented By

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VEEJ Corp

Jeffrey S Shinbrot

Chapter 11

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2:20-14175 Tea Station Investment Inc.

Chapter 11

#9.00 Cont'd hrg re: Claimant Baodi Zhou's Motion to Compel Depositions in a Contested Matter and Bankruptcy Rule 2004 Examination, and Production of Documents]
fr. 04/27/21

Docket 196

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 11, 5/4/21 at 1:00 p.m.).

Party Information

Debtor(s):

Tea Station Investment Inc.

Represented By
Leslie A Cohen

Trustee(s):

John-Patrick McGinnis Fritz (TR)

Pro Se

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2:20-14175 Tea Station Investment Inc.

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#10.00 Cont'd hrg re: Debtor's Motion Objecting to Proof of Claims of Baodi Zhou, or in the Alternative, Motion to Estimate Claims fr. 04/27/21

Docket 184

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 11, 5/4/21 at 1:00 p.m.).

Party Information

Debtor(s):

Tea Station Investment Inc.

Represented By
Leslie A Cohen

Movant(s):

Tea Station Investment Inc.

Represented By
Leslie A Cohen
Leslie A Cohen

Trustee(s):

John-Patrick McGinnis Fritz (TR)

Pro Se

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2:20-14175 Tea Station Investment Inc.

Chapter 11

#11.00 Cont'd Status Conference re: Chapter 11 Case
fr. 7/28/20, 9/1/20, 9/15/20, 9/29/20, 12/22/20,
1/26/21, 3/9/21, 4/6/21, 04/27/21

Docket 15

Tentative Ruling:

Tentative Ruling for 5/4/21:

Appearances required.

(1) Current issues

(a) Summary

The biggest issue in these jointly administered cases appears to be how to address the claims of Ms. Zhou against each Debtor, on behalf of herself and other former employees. There is a risk that expenses of litigation could consume a substantial portion of any potential distribution to creditors. That threat to distributions includes Ms. Zhou herself, anyone she might represent, and other claimants - whose interests must be protected.

Debtors have objected to allowance of Ms. Zhou's claims. The tentative ruling is that:

(i) Ms. Zhou cannot represent any former employees who might have priority claims, because there is an inherent conflict of interest between those priority claims and her own nonpriority claims;

(ii) It is possible that Ms. Zhou's claims might have legal and factual issues in common with some other employees' nonpriority claims, and might be typical of such claims, but Debtor is correct that estimation of any such claims is required, because liquidating such claims would unduly delay and adversely affect the administration of this bankruptcy case, and prejudice other creditors. Therefore, streamlined procedures are appropriate, and it is appropriate to limit discovery at this stage to address (x) claims against the one Debtor that directly managed the location at which Ms. Zhou worked (not potential claims against all Debtors, or against any third parties such as Debtors' principals) and (y) claims that are not barred by the three year statute of limitations.

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(b) Background

This Court previously denied Ms. Zhou's motion for relief from the automatic stay (11 U.S.C. 362(a)) to resume her litigation in State Court against Debtors. This Court did so without prejudice to Ms. Zhou renewing that motion in future if Debtors fail to make sufficient progress in these bankruptcy cases, or for other cause (and this Court terminated any stay that might apply to nondebtors). See Order (dkt.177).

In making these rulings, this Bankruptcy Court was keenly aware that the State Court discovery proceedings were under way and that the State Court might have considerable expertise in labor and employment matters. See Motion to Dismiss/for Relief From Stay (dkt.49), p.16:10-12 ("The matter has been assigned to the Hon. Yvette Palazuelos. According to Westlaw, the Hon. Palazuelos has heard over 400 labor & employment cases, and those cases constitute the plurality of her docket") (citation omitted). This Bankruptcy Court has also wished to accord comity to State Courts and their proceedings.

Nevertheless, this Bankruptcy Court has been mindful that Congress provided for the automatic stay largely to protect the bankruptcy estate from depletion. This Court's principal concern was that the cost and delay of "scorched earth" litigation (which might be appropriate outside of a bankruptcy case) has the potential to cause undue harm to third party creditors when, as in these bankruptcy cases, there appear to be very limited assets available.

Put differently, in bankruptcy cases there is generally a limited "pie" to be divided among creditors, and although the Bankruptcy Code provides some tools to attempt to grow the "pie," in general one creditor's gain is other creditors' loss. In addition, if the costs and delays of litigation are too great, there is a substantial risk that an attempted reorganization will turn into a liquidation, thereby further harming all creditors.

Debtor's proposed Plan (dkt.137) provides that Ms. Zhou's priority claim (for herself and others) will be paid either \$0 or, if allowed, paid in full on the later of the Effective Date or when the claim is allowed by a final non-appealable order. See Plan (dkt.137), section 4.01 (at PDF p.6). The Plan proposes that nonpriority claims will receive a pro-rata share of \$150,000, resulting in an estimated dividend between 1.63% and 6.99% depending on the outcome of Debtor's objection to the nonpriority portion of Ms. Zhou's \$7 million claim. *Id.*, section 4.02. That is already a small dividend, without

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being further eroded and delayed.

True, it is conceivable that someone else would be willing to pay more for Debtors' assets, or perhaps someone could object to other claims, and those things might increase the possible dividends. But to date nobody has filed any papers to pursue such alternatives, and on the present record this Bankruptcy Court's concerns about cost and delay loom large.

(c) Debtor's Motion Objecting to Proof of Claims of Baodi Zhou, or in the Alternative, Motion to Estimate Claims (the "Claim Objection," dkt. 184); and Claimant Baodi Zhou's Motion to Compel Depositions in a Contested Matter and a Bankruptcy Rule 2004 Examination, and Production of Documents (the "Motion to Compel," dkt. 196), Debtors' Response (dkt.203), Ms. Zhou's Reply (dkt.210)

Ms. Zhou has filed claims as a purported representative of other claimants based on unpaid overtime and other wage claims, under Rule 23 (Fed. R. Civ. P.). Debtor objects that Rule 23 does not automatically apply because (w) there is no pending adversary proceeding and (x) Rule 23 is not among the rules that *automatically* apply to contested matters.

Debtor acknowledges that this Court "may at any stage in a particular matter direct" that Rule 23 apply (per Rules 7023 and 9014(c), Fed. R. Bankr. P.). But Debtor notes that this Court must consider (y) the usual requirements under Rule 23 of numerosity, commonality, and typicality, and also (z) special bankruptcy considerations. *See generally In re In re Musicland Holding Corp.*, 362 B.R. 644, 654-58 (Bankr. SD NY 2007) (discussion of "Bankruptcy Considerations"). Ms. Zhou has not cited any contrary authority.

(i) Priority claims cannot be asserted by Ms. Zhou

The tentative ruling is to sustain Debtor's objection to Ms. Zhou purporting to represent any priority claimants under 11 U.S.C. 507(a)(4) and (5) ("Employee Priority Claims"). As a matter of bankruptcy law, there is an inherent conflict between the holders of Employee Priority Claims and the holders of non-priority claims, such as Ms. Zhou.

The conflict is presented because Employee Priority Claims must arise within 180 days before the petition date. 11 U.S.C. 507(a)(4) and (5). But Ms. Zhou has not been employed by any of Debtors for several years, so she has only a general unsecured claim.

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That makes all the difference in the world because, under 11 U.S.C. 1129(a)(9)(B), Employee Priority Claims are entitled to "cash on the effective date of the plan equal to the allowed amount of such claim" (or, if the class consents, payments over time with interest). The more Debtors have to pay to those claims, the less they can pay to nonpriority unsecured creditors such as Ms. Zhou. So if Ms. Zhou were to represent priority claimants she would have an incentive to minimize their priority claims - a direct conflict of interest.

The tentative ruling is that this conflict of interest precludes any finding of commonality or typicality under Rule 23 (assuming for purposes of discussion that Rule 23 would be applied). In addition, the tentative ruling is that as a matter of bankruptcy law any certification of Ms. Zhou to represent priority claims would "adversely affect the administration of the case" by effectively interfering with any ability to reach a consensual or litigated allocation of distributions between priority and nonpriority unsecured claims. *Musicland*, 362 B.R. 644, 654 (citations omitted). See *also* Claim Obj. (dkt.184), pp.24:16-26:12.

Moreover, Ms. Zhou's claims, which are approximately five years old, appear to lack commonality or typicality when compared to claims within 180 days prepetition, which were during the period when Debtors closed their stores permanently, in or about March of 2020, due to the COVID-19 pandemic. See Claim Obj. (dkt.184), p.11:15-18) *and* Huang Decl. (dkt.186), para.12. For example, any employees who worked for Debtors shortly before their petition dates might or might not have claims under federal or State "WARN" Acts, and Ms. Zhou would have an inherent conflict of interest in assessing whether any such claims existed, because any such claims would reduce the payment of her own (nonpriority) claims. In addition, even before the stores were closed, the working hours and conditions in February and March of 2020 likely varied from what was typical prior to the pandemic.

These are additional reasons why Ms. Zhou does not appear to be a proper representative for employees who worked for Debtors shortly before their petition dates. Again, her claims appear to lack commonality or typicality, and it appears that any certification of Ms. Zhou to represent priority claims would "adversely affect the administration of the case." *Musicland*, 362 B.R. 644, 654 (citations omitted).

(ii) The theoretical possibility of claimants who have priority claims, but did not have notice of these bankruptcy cases in time to file proofs

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of claim, does not change the foregoing tentative ruling

This Court recognizes that, if Ms. Zhou cannot represent any priority claimants, there might be no distribution to any such claimants who might exist but who, for whatever reason, did not file their own proofs of claim. But for two reasons the tentative ruling is that this does not change the outcome.

First, any harm to such hypothetical priority claimants does not alter the tentative ruling that Ms. Zhou has an irreconcilable conflict of interest so she cannot represent any such claimants. Second, to the extent if any that equitable considerations apply, there does not appear to be any undue prejudice to Debtors' former employees who might have priority claims but did not file proofs of claim.

Debtors assert that, when they closed their stores and terminated all employees in March of 2020, all employees "were paid in full any amounts owed [*i.e.*, any amounts that Debtors asserted were owed] upon termination," and "were notified that a bankruptcy had been filed." Huang Decl. (dkt.186), p.4:4-6. In addition, Debtors assert that "there were multiple articles published in popular news media sources in the Chinese community (the Debtors' main demographic base of consumers and employees) and elsewhere of the bankruptcy filings. https://en.thechihuo.com/articles/ch_20200603_01." *Id.*, p.4:7-11.

Those direct and general notices provide some assurances of a fair process. In addition, such notices and the procedures for filing claims in bankruptcy should not be lightly cast aside in favor of Rule 23 procedures. *See generally Musicland*, 362 B.R. 644, 654 ("The most propitious time for filing a motion for class recognition is before a bar date is established, since the bar date is effectively uprooted in part by an extension of the bar date for a favored class of creditors.") (citation and internal quotation marks omitted).

True, it is conceivable that, despite all such payments and notices, an employee who ceased to work for one of Debtors in, say, November of 2019 might be unaware of these bankruptcy cases and might assert a claim for unpaid wages, unpaid overtime, lack of breaks, etc. But it has been a year and a half since then, and it is unlikely that a former employee who sought to assert any such claims would not have contacted Debtor(s). At that point such Debtor(s) would have given that former employee notice of the bankruptcy case (or risk liability for failing to provide any such notification).

More generally, in every bankruptcy case there is the possibility of unknown claimants who were not on notice of the bankruptcy case, but there

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is a limit to how much notice any debtor must provide to every conceivable claimant. For example, every customer of a grocery store is a potential slip-and-fall claimant, but this Court is not aware of any requirement to mail notices to every customer of the grocery store's bankruptcy filing and bar date.

In sum, the tentative ruling is that Debtors were not required to provide more notice than they already provided of their bankruptcy petitions or their claims bar dates. In addition, the tentative ruling is that this Court will not *sua sponte* establish any exception to the bar date, or any procedures for supplemental notices to every person who worked for Debtors within 180 days before their bankruptcy petitions and who, for whatever reason, did not file proofs of claim.

(iii) Ms. Zhou's nonpriority claims

The tentative ruling is that none of Debtors' objections to Ms. Zhou's nonpriority claims can be sustained at this time, without developing facts that appear to require more discovery (but streamlined discovery is appropriate, as discussed in the next section). True, Debtors' objections have some appeal; but without more discovery the tentative ruling is that they cannot be sustained.

Debtor objects that Ms. Zhou's claims lack commonality and typicality with other (nonpriority) claims because:

she was only employed at one store operated by TSI [(Tea Station Investment Inc.) - *i.e.*, she did not work at other TSI stores, nor did she work at stores operated by other Debtors. In addition, she] only worked in the kitchen staff at that one store until 2015. ... [E]ach store had its own supervisors and manager who set the staff schedule and directed employees. Moreover, each store had its own payroll, and the payroll management and processing changed to ADP after Zhou's employment terminated. [Claim Obj. (dkt.184), p.21:15-19 (citations omitted, emphasis added).]
* * *

Zhou's duties and hours as a kitchen staff member were completely different from the cashier staff and serving staff. Thus, Zhou's claims of not being allowed breaks or having to work overtime at her store because she was the sole cook in the kitchen were necessarily different from the experiences of the other employees,

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not only within her store, but from the other stores, as well. Thus, Zhou' Claims lack typicality. [Claim Obj. (dkt.184), p.22:1-5 (emphasis in original).]

Likewise, Ms. Zhou's attempt to assert any "common enterprise," alter ego, or similar theories might not be successful, based on Debtor's evidence and argument that:

Zhou was never employed by the other Debtors, and they are not her employer under the [applicable legal standards]. The other Debtors did not control Zhou's wages, hours and working conditions, nor did they "suffer or permit her to work." In fact, ... [all] of the other Debtors were independently owned and operated entity businesses, having their own corporate governance records, separate employees, store managers and supervisors, payroll records, and bank accounts. [Claim Obj. (dkt.184), p.15:23-28 (citation omitted)]

Likewise, there is some appeal to Debtors' argument that:

Debtors' use of common policies and procedures or forms does not mean that each entity is a joint employer or that it has control over the hiring, firing, supervision, discipline, and relevant day to day aspects of workplace behavior of the employees employed by the other businesses. ... Indeed, to hold otherwise would effectively make all clients of employment lawyers, CPAs, payroll processing and human resources companies effectively joint employers of one another simply because they may share the same policies, practices and procedures. [Claim Obj. (dkt.184), p.16:17-28 (citations omitted)]

But this Bankruptcy Court cannot tell from either the factual record before this Court or the parties' briefs whether discovery in the State Court had progressed to a point at which any of the foregoing arguments would be dispositive. For example, although Ms. Zhou does not know if her experience with "break times" is different from that of other employees (particularly outside of the kitchen where she worked), she might be able to establish with appropriate discovery that other employees did have similar break times. This Court does not know if she has been able to pursue such discovery. See, e.g., Ms. Zhou Deposition Tr. (undated), p.79:5-8 (Ex.B to T. Pham Decl., dkt.185, at PDF p. 75) ("Q[:] Do you know whether any of the employees at the Tea Station where you worked took at least two breaks a

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day?" A[:] I don't know.").

Therefore, it appears that more discovery may be appropriate. But the question is, what breadth and depth of discovery is appropriate?

(iv) Claim estimation

As noted at the start of this tentative ruling, this Bankruptcy Court is concerned that the cost and delay of "scorched earth" litigation would be unduly prejudicial to creditors (including Ms. Zhou). Part of the reason is that the claims that she purports to assert on behalf of other former employees are unliquidated, and any proceedings to determine how to liquidate all such claims appear likely to be extensive.

For example, this Bankruptcy Court takes judicial notice that the State Court's extensive rulings on some discovery disputes extended to 30 pages. See Grimes Decl. (dkt.196), Ex.A. This Court has carefully reviewed those rulings, and they reflect a substantial amount of litigation by all parties, consistent with this Court's concerns about "scorched earth" effects.

Debtor argues that "Zhou's Claims should be disallowed entirely, or in the alternative, the Court should estimate the Claims for only Zhou herself, or at most, the Court should estimate the claims for a limited class of employees of TSI only, if any, who have a commonality of claims with Zhou during the period of Zhou's employment." Claim Obj. (dkt.203), p.5:23-26 (emphasis added). These are all colorable alternatives.

This Bankruptcy Court "shall" estimate any contingent of unliquidated claims the fixing or liquidating of which would "unduly delay the administration of the case." 11 U.S.C. 502(c). The tentative ruling is that Ms. Zhou's claims - both on her own behalf and purportedly on behalf of other former employees - are unliquidated and must be estimated. "A claim is unliquidated when it is not subject to ready determination and precision in computation of the amount due." *In re Castellino Villas, A.K.F. LLC*, 836 F.3d 1028, 1033 (9th Cir. 2016) (citation and internal quotation marks omitted). Because the calculation of Ms. Zhou's claims relies upon several different unliquidated figures, including but not limited to the number of days worked by each employee, the number, length, and frequency of breaks taken by each employee (which may be very difficult to determine with accuracy), and the hourly pay rate for each employee, her claims and the potential claims of other former employees are "not subject to ready determination and precision."

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Alternatively, the tentative ruling is that permitting Ms. Zhou to act as a Rule 23 class representative for all other former employees who might be able to assert purportedly similar claims, without any limitations on discovery and other procedures, would "adversely affect the administration of this bankruptcy case" because of the resulting costs and delays in liquidating those claims, unless discovery and other procedures are streamlined. *Musicland*, 362 B.R. 644, 654 (citations omitted). Again, other creditors will be unduly harmed if such procedures are not adopted.

Under either of the foregoing alternative grounds, this Bankruptcy Court has discretion in determining the scope of discovery and other proceedings. See, e.g., *In re The Bible Speaks*, 65 B.R. 415, 427 (Bankr. D. Mass. 1986) (reviewing various discretionary aspects of claims estimation proceedings, including "limited discovery") (citations omitted). In addition, Debtor cites authority for limiting discovery in the labor and wage context. See Claim Obj. (dkt.203), *passim*.

The tentative ruling is to start with discovery only with respect to Ms. Zhou's own personal claims, and only with respect to the one Debtor that directly managed the location at which Ms. Zhou worked (as distinguished from potential claims against all Debtors, or against any third parties such as Debtors' principals). The parties are directed to address how much discovery on those issues has already occurred in the State Court proceedings.

Depending on the results of that discovery - if Ms. Zhou establishes grounds for her own claims - this Court anticipates that it might well be appropriate to expand discovery to encompass discovery on the above-quoted defenses raised by Debtor - e.g., whether Ms. Zhou in particular, or "kitchen staff" in general, had working conditions that lack typicality or commonality with other former employees. Any such discovery would also be subject to other limitations, such as applying to the time frame of the applicable statute of limitations. But any discovery beyond Ms. Zhou's own claims would be an issue for another day.

(v) Lack of propounded discovery

Debtors object that Ms. Zhou has not yet actually propounded any discovery requests, so her Motion to Compel is premature. Debtors also object that because their claim objections and any proceedings on Plan confirmation are contested matters, any discovery must be in accordance with Rule 7026 et seq., not Rule 2004 (Fed. R. Bankr. P.). The tentative ruling is

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that Debtor is correct.

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(d) Conclusion

The tentative ruling is to sustain in part, overrule in part, and continue Debtor's Claim Objection contemporaneous with the continued status conference (see below). The tentative ruling is also to deny as premature Ms. Zhou's Motion to Compel.

The parties are directed to address (i) whether discovery in the State Court proceedings has already covered the limited scope of initial discovery outlined above (limited to Ms. Zhou's own claims, and to the one Debtor that directly managed the location at which Ms. Zhou worked) and, if not, (ii) a schedule and procedures for conducting such discovery. The tentative ruling is to memorialize all of the foregoing in an interim order on the Claim Objection, and a final order on the Motion to Compel.

Proposed order: Debtor is directed to lodge proposed orders on both of the foregoing matters via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling to the order on the Claim Objection, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

(2) Dates/procedures. This case was filed on 5/4/20 and converted from chapter 7 to chapter 11 on 7/1/20 (dkt.17). The petition was amended to elect Subchapter V on 7/14/20 (dkt.27). On 9/4/20 this Court ordered joint administration with affiliated debtors (dkt.64).

- (a) Bar date: (i) Investment 9/9/20 (dkt. 40; timely served, dkt. 43);
Affiliated Debtors 11/10/20.
- (b) Procedures order: dkt.18 (timely served, dkt.20) (also timely served in each jointly administered case).
- (c) Plan (dkt. 137): hearing TBD.
- (d) Continued status conference: 6/1/21 at 1:00 p.m. No written status report required.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at

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www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Tea Station Investment Inc.

Represented By
Leslie A Cohen

Movant(s):

Tea Station Investment Inc.

Represented By
Leslie A Cohen
Leslie A Cohen

Trustee(s):

John-Patrick McGinnis Fritz (TR)

Pro Se

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2:19-23664 Liat Talasazan

Chapter 7

Adv#: 2:20-01027 Talasazan v. Oxygen Funding, Inc. et al

#1.00 Cont'd Status Conference re: Complaint for Damages, Declaratory Relief and Injunctive Relief for 1.) Violation of Automatic Stay; 2.) Turnover Under 11 U.S.C. Section 542; 3) Avoidance of Transfer Under 11 U.S.C. Section 544; 4) Avoidance of Fraudulent Transfer Under 11 U.S.C. Section 548; 5) Recovery and Preservation of Avoided Transfers Pursuant to 11 U.S.C. Sections 550(a), 551; 6) Unfair Practices under California Business & Professions Code Section 17200; and 7) Slander of Title
fr. 4/21/20, 9/15/20, 12/22/20, 2/9/21, 03/02/21

Docket 1

***** VACATED *** REASON: Continued to 5/11/21 at 11 a.m. so that it can be heard with other related cases**

Tentative Ruling:

Party Information

Debtor(s):

Liat Talasazan

Represented By
Giovanni Orantes
Luis A Solorzano

Defendant(s):

Oxygen Funding, Inc.

Represented By
Vonn Christenson

Adam Landis Lomax

Represented By
Vonn Christenson

Plaintiff(s):

Liat Talasazan

Represented By
Luis A Solorzano
Giovanni Orantes

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Trustee(s):

Caroline Renee Djang (TR)

Pro Se

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Hearing Room 1545

2:00 PM

2:19-18316 Ashley Susan Aarons

Chapter 11

#2.00 Hrg re: First and Final Application for Approval of Preconfirmation Fees and Reimbursement of Expenses by Shulman Bastian Friedman & Bui LLP, Attorneys for the Debtor and Debtor in Possession

Docket 411

Tentative Ruling:

Please see the tentative ruling for the post-confirmation status conference (Calendar No. 4, 5/4/21 at 2:00 p.m.).

Party Information

Debtor(s):

Ashley Susan Aarons

Represented By
James C Bastian Jr
Rika Kido

Trustee(s):

John-Patrick McGinnis Fritz (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 4, 2021

Hearing Room 1545

2:00 PM

2:19-18316 Ashley Susan Aarons

Chapter 11

**#3.00 Hrg re: Application for payment final fees and/or expenses
[The Law Offices of Totaro & Shanahan]**

Docket 409

Tentative Ruling:

Please see the tentative ruling for the post-confirmation status conference
(Calendar No. 4, 5/4/21 at 2:00 p.m.).

Party Information

Debtor(s):

Ashley Susan Aarons

Represented By
James C Bastian Jr
Rika Kido

Trustee(s):

John-Patrick McGinnis Fritz (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 4, 2021

Hearing Room 1545

2:00 PM

2:19-18316 Ashley Susan Aarons

Chapter 11

#4.00 Cont'd Status Conference re: Post confirmation
fr. 8/20/19, 9/24/19, 10/4/19, 10/15/19, 10/29/19,
11/12/19, 12/10/19, 1/14/20, 03/31/20, 4/7/20,
4/21/20, 5/5/20, 6/16/20, 6/30/20, 8/4/20, 9/29/20,
10/14/20, 10/22/20, 11/12/20, 12/8/20, 12/22/20,
1/5/21, 1/26/21, 2/4/21, 2/11/21, 4/27/21

Docket 1

Tentative Ruling:

Tentative Ruling for 5/4/21:

Continue as set forth below. Appearances are not required on 5/4/21.

(1) Current issues

(a) Fee Application of Shulman Bastian Friedman & Bui LLP (dkt. 411, 417), no opposition on file

Allow Applicant's request for \$496,173.50 in fees and \$8,956.51 in costs, for a total award of \$505,130.01.

(b) Fee Application of The Law Offices of Totaro & Shanahan (dkt. 409, 410, 416), no opposition on file

Allow Applicant's request for \$95,990 in fees and \$0 in costs, for a total award of \$95,990, and approve on a final basis all previously awarded fees and costs.

Proposed orders: Applicants are directed to lodge separate proposed orders on each of the foregoing applications via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(c) Disputes with Patch of Land

This Court has reviewed Debtor's post-confirmation report #1 (dkt. 418), which includes a description of some disputes with creditor Patch of Land. This Court is not aware of any motion or other basis for this Court to make any rulings at this time, so the tentative ruling is to take no action on such disputes (although, if the parties would like this Court to set a briefing

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, May 4, 2021

Hearing Room 1545

2:00 PM

CONT...

Ashley Susan Aarons

Chapter 11

schedule or address other procedural matters, they can arrange to appear at the hearing and raise such issues).

(2) Deadlines/dates

This case was filed on 7/17/19, and Debtor's plan was confirmed on 2/11/21 (dkt. 390). The tentative ruling is to set a further continued Post-Confirmation Status Conference for 8/17/21 at 1:00 p.m. *Brief* post-confirmation status report due 8/3/21.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Ashley Susan Aarons

Represented By
James C Bastian Jr
Rika Kido

Trustee(s):

John-Patrick McGinnis Fritz (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 11, 2021

Hearing Room 1545

9:00 AM

2:00-00000

Chapter

#1.00 ZoomGov Instructions for all matters on today's calendar:

Meeting ID: 161 043 8641

Password: 006149

Meeting URL: <https://cacb.zoomgov.com/j/1610438641>

Telephone: +1 669 254 5252 or +1 646 828 7666 or 833 568 8864 (Toll Free)

Please connect at least 5 minutes before the start of your hearing, and wait with your microphone muted until your matter is called. You do not need to call Chambers for advance approval. ZoomGov appearances are free

Docket 0

Tentative Ruling:

- NONE LISTED -

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 11, 2021

Hearing Room 1545

10:00 AM

2:21-11852 Britney Tahira Somadhi

Chapter 13

#1.00 Hrg re: Motion for relief from stay [RP]

REAL TIME RESOLUTIONS, INC
vs
DEBTOR

Docket 20

Tentative Ruling:

Grant as provided below. Appearances required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Key documents reviewed (in addition to motion papers): Debtor's opposition (dkt. 24)

Reasons:

The tentative ruling is to overrule Debtor's opposition and grant the motion under 11 U.S.C. 362(d)(1) and (d)(4).

Debtor is correct that the filing of multiple bankruptcy petitions might not, on its own, be sufficient to warrant relief under 11 U.S.C. 362(d)(4)(B). But Movant has also presented evidence establishing that on 3/5/21 (3 days before filing this petition) Devindra Polittle Somadhi ("Borrower") executed an unauthorized grant deed purporting to transfer the property to Debtor (see dkt. 20, pdf p. 52 and 11 U.S.C. 362(d)(4)(A)) and Debtor does not appear to have any legitimate intention to reorganize her affairs because she has not filed a chapter 13 plan or most of the mandatory case commencement documents in the two months that this case has been pending (see dkt. 8).

Based on the totality of the circumstances, the tentative ruling is that sufficient grounds exist to find that the filing of the petition was part of a scheme to *delay* and *hinder* Movant's foreclosure efforts warranting *in rem* relief under 11 U.S.C. 362(d)(4).

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 11, 2021

Hearing Room 1545

10:00 AM

CONT... Britney Tahira Somadhi

Chapter 13

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(4).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Relief notwithstanding future bankruptcy cases.

Grant the following relief pursuant to 11 U.S.C. 362(d)(4) and the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case, for the reasons set forth above, is that there is sufficient evidence and notice.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

**United States Bankruptcy Court
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10:00 AM

CONT... Britney Tahira Somadhi

Chapter 13

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Britney Tahira Somadhi

Represented By
Sarah E Shapero

Movant(s):

REAL TIME RESOLUTIONS, INC.

Represented By
Renee M Parker

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 11, 2021

Hearing Room 1545

10:00 AM

2:20-11037 Jennifer Webb

Chapter 13

#2.00 Hrg re: Motion for relief from stay [RP]

U.S. BANK TRUST NATIONAL ASSOC
vs
DEBTOR

Docket 49

Tentative Ruling:

Appearances required.

There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current, (b) whether they will agree to the terms of an adequate protection order, and/or (c) whether Debtor and Movant will agree to a continuance for Debtor to finish attempting to obtain a loan modification (see Debtor's response, dkt. 51).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Jennifer Webb

Represented By
Sundee M Teeple

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 11, 2021

Hearing Room 1545

10:00 AM

CONT... Jennifer Webb

Chapter 13

Movant(s):

U.S. Bank Trust National

Represented By
Erica T Loftis Pacheco

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 11, 2021

Hearing Room 1545

10:00 AM

2:20-11557 Gwendolyn Bernitta Moore

Chapter 13

#3.00 Hrg re: Motion for relief from stay [RP]

LAKEVIEW LOAN SERVICING, LLC
vs
DEBTOR

Docket 46

Tentative Ruling:

Appearances are not required.

Grant as set forth below.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter

**United States Bankruptcy Court
Central District of California
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Tuesday, May 11, 2021

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10:00 AM

CONT... Gwendolyn Bernitta Moore

Chapter 13

by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Gwendolyn Bernitta Moore

Represented By
Arlene M Tokarz

Movant(s):

Lakeview Loan Servicing, LLC

Represented By
Erin M McCartney

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 11, 2021

Hearing Room 1545

10:00 AM

2:19-14588 Ingrid Beatrice Moody

Chapter 13

#4.00 Hrg re: Motion for relief from stay [RP]

NEWREZ LLC d/b/a SHELLPOINT
MORTGAGE SERVICING
VS
DEBTOR

Docket 29

***** VACATED *** REASON: APO**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Ingrid Beatrice Moody

Represented By
Jeffrey N Wishman

Movant(s):

NewRez LLC d/b/a Shellpoint

Represented By
Eric P Enciso
Kristin A Zilberstein

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 11, 2021

Hearing Room 1545

10:00 AM

2:21-13433 Porfirio Castillo

Chapter 13

#4.10 Hrg re: Motion for relief from stay [RP]

CAM XI TRUST
vs
DEBTOR

Docket 12

Tentative Ruling:

Appearances required.

Grant as set forth below, subject to any opposition at the hearing.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(4).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Retroactive relief

Deny the request for retroactive annulment of the stay because Judge Bason is not prepared to issue a blanket annulment with respect to whatever unspecified things might have occurred postpetition.

Relief notwithstanding *future* bankruptcy cases.

Grant the following relief pursuant to 11 U.S.C. 362(d)(4) and the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, May 11, 2021

Hearing Room 1545

10:00 AM

CONT...

Porfirio Castillo

Chapter 13

bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is not sufficient evidence and notice.

No prejudice to Debtor intended. Based on the record, it appears that this might be a "hijacked" case, and that Debtor might be innocent of any involvement. See e.g., *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017) (describing hijacking); *In re Dorsey*, 476 B.R. 261 (Bankr. C.D. Cal. 2012) (same). In a hijacking case, the Debtor faces the legitimate concern of being subject to a 180-day bar and other adverse consequences if, for example, Debtor later requests and obtains a voluntary dismissal and subsequently needs to file another bankruptcy petition. See, e.g., 11 U.S.C. 109(g)(2), 362(b)(21)(A). There is authority that section 109 "eligibility issues" are nonjurisdictional, can be waived, forfeited, or subject to estoppel, and should not be applied if that would produce an "illogical, unjust, or capricious result, or when the benefit of dismissal would inure to a bad faith creditor." *In re Leafy*, 489 B.R. 545, 550-51 (9th Cir. BAP 2012) (citing cases including under 109(g)(2)). See also *In re Mendez*, 367 B.R. 109, 116-17 (9th Cir. BAP 2007); *In re Luna*, 122 B.R. 575, 577 (9th Cir. BAP 1991); *Dorsey*, 476 B.R. 261, 270. The same principles apply to any other adverse consequences from a hijacking. Accordingly, the tentative ruling is to condition the relief from the automatic stay granted in this tentative ruling such that no adverse consequences apply to Debtor from the hijacking, including under 11 U.S.C. 109(g)(2) or 362(b)(21)(A). Note: None of the foregoing will shield Debtor if it turns out that Debtor was not, in fact, innocent of any involvement in the apparent hijacking or other abusive scheme.

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, May 11, 2021

Hearing Room 1545

10:00 AM

CONT... **Porfirio Castillo**

Chapter 13

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Porfirio Castillo

Pro Se

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 11, 2021

Hearing Room 1545

10:00 AM

2:21-13041 Nadine Romero

Chapter 13

#5.00 Hrg re: Motion in Individual Case for Order
Imposing a Stay or Continuing the Automatic
Stay as the Court Deems Appropriate

Docket 15

Tentative Ruling:

Grant, subject to the following conditions. Appearances are not required.

After the hearing date this Court will prepare an order and the tentative ruling is to include the following language in that order:

The stay of 11 U.S.C. 362(a) applies subject to the following modifications and conditions:

(1) Service and reconsideration. Any party in interest who was not timely served in accordance with FRBP 7004 (incorporated by FRBP 9014(b)) is hereby granted through 14 days after proper service to seek reconsideration, including retroactive relief (under FRBP 9023 and/or 9024). Any such person (a) may set a hearing on 14 days' notice, (b) may appear by telephone (if arrangements are made per Judge Bason's posted procedures), and (c) may present all arguments orally at the hearing (*i.e.*, no written argument is required). If written arguments appear necessary then this court will set a briefing schedule at the hearing.

(2) Reasons. (a) It appears appropriate to impose the automatic stay, and to impose it as to all persons rather than just as to selected persons, because one purpose of the automatic stay is to preventing a "race to collect" that could unfairly advantage some creditors at the expense of others. (b) To prevent possible abuse, this Court provides the foregoing simple process for reconsideration.

(3) Very limited ruling. This Court's tentative ruling to grant the foregoing relief is solely for purposes of this motion, and is not intended to have any binding effect with respect to any future assertions by any party in interest regarding the existence or lack of existence of good faith in any other context.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 11, 2021

Hearing Room 1545

10:00 AM

CONT... Nadine Romero

Chapter 13

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Nadine Romero

Represented By
David Samuel Shevitz

Movant(s):

Nadine Romero

Represented By
David Samuel Shevitz
David Samuel Shevitz
David Samuel Shevitz

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 11, 2021

Hearing Room 1545

10:00 AM

2:19-21613 Tanisha S. Harrington

Chapter 13

#6.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 4/27/21

NEWREZ LLC
vs
DEBTOR

Docket 37

***** VACATED *** REASON: APO**

Tentative Ruling:

Party Information

Debtor(s):

Tanisha S. Harrington

Represented By
Matthew D. Resnik

Movant(s):

NewRez LLC d/b/a Shellpoint

Represented By
James F Lewin

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 11, 2021

Hearing Room 1545

11:00 AM

2:19-23664 Liat Talasazan

Chapter 7

Adv#: 2:21-01041 Oxygen Funding, Inc. v. Talasazan

- #1.00** Status conference re: Complaint for determination of dischargeability and objecting to debtor's discharge pursuant to sections 523 and 727 of the Bankruptcy Code

Docket 1

Tentative Ruling:

Appearances required.

(A) Current issues

This Court has reviewed the parties' joint status report (adv. dkt. 7) and the other filed documents and records in this adversary proceeding.

(1) Overlap with Talasazan v. Oxygen Funding, Inc., et. al [2:20-ap-01027-NB] (the "Lien Avoidance Action")

The parties highlight that some of the claims at issue in this proceeding arise out the name nucleus of facts at issue in the currently stayed Lien Avoidance Action and would consent to this matter being stayed to track that proceeding. Dkt. 7, p.4, para. "(G)". But, as noted in this Court's tentative ruling for the Lien Avoidance Action (see Calendar No. 2, 5/11/21 at 11:00 a.m.), that proceeding may become moot if this Court approves the Trustee's pending sale motion (dkt. 588, Calendar No. 3, 5/11/21 at 11:00 a.m.). Therefore the tentative ruling is not to stay this matter and instead to proceed with setting appropriate discovery deadlines (see Section (B)(3) below).

(B) Standard requirements

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority

The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this Bankruptcy Court's authority to enter final

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 11, 2021

Hearing Room 1545

11:00 AM

CONT...

Liat Talasazan

Chapter 7

orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. See generally *Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). See generally *In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation

The tentative ruling is to set a **deadline of 5/25/21** for the parties to lodge a proposed mediation order. Both parties state in the status report (adv. dkt. 7) that they favor mediation.

(3) Deadlines

This adversary proceeding has been pending since 3/8/21. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Joinder of parties/amendment of pleadings-deadline: 7/6/21

Discovery cutoff (for completion of discovery): 7/20/21

Expert(s) - deadline for reports: N/A

Expert(s) - discovery cutoff (if different from above): N/A

Dispositive motions to be heard no later than: 8/31/21

Joint Status Report: 8/17/21.

Continued status conference: 8/31/21 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers, including direct testimony by declaration unless excused: TBD

Trial commencement: TBD

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11:00 AM

CONT... Liat Talasazan

Chapter 7

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Liat Talasazan

Represented By
Giovanni Orantes
Luis A Solorzano

Defendant(s):

Liat Talasazan

Pro Se

Plaintiff(s):

Oxygen Funding, Inc.

Represented By
Vonn Christenson

Trustee(s):

Caroline Renee Djang (TR)

Represented By
David Wood

**United States Bankruptcy Court
Central District of California
Los Angeles
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Hearing Room 1545

11:00 AM

2:19-23664 Liat Talasazan

Chapter 7

Adv#: 2:20-01027 Talasazan v. Oxygen Funding, Inc. et al

- #1.10** Cont'd Status Conference re: Complaint for Damages, Declaratory Relief and Injunctive Relief for 1.) Violation of Automatic Stay; 2.) Turnover Under 11 U.S.C. Section 542; 3) Avoidance of Transfer Under 11 U.S.C. Section 544; 4) Avoidance of Fraudulent Transfer Under 11 U.S.C. Section 548; 5) Recovery and Preservation of Avoided Transfers Pursuant to 11 U.S.C. Sections 550(a), 551; 6) Unfair Practices under California Business & Professions Code Section 17200; and 7) Slander of Title
fr. 4/21/20, 9/15/20, 12/22/20, 2/9/21, 03/02/21, 5/4/21

Docket 1

Tentative Ruling:

Tentative Ruling for 5/11/21 (same as for 3/2/21, 2/9/21, 12/22/20, except dates):

This matter remains stayed, per this Court's oral ruling at the status conference on 9/15/20. Please see the tentative ruling for the main case status conference (Calendar No. 4, 5/11/21 at 11:00 a.m.).

Tentative Ruling for 9/15/20:

Appearances required.

This Court has reviewed the parties' joint status report (dkt. 37) and the other filed documents and records in this adversary proceeding.

Current issues

(a) Apparent waste of resources and/or unwillingness to prosecute

This Court continues to have serious concerns why it makes any sense for Debtor to dispute the alleged security interest of Oxygen Funding, Inc. when (i) Debtor continues to assert that all creditors will be paid 100% of their allowed claims regardless whether those claims are or are not secured by any collateral, (ii) the Bankruptcy Code includes many tools to assure that disputed security interests do not block attempted refinancings, sales, or other uses of estate property (see, e.g., 11 U.S.C. 363(f), 1129(b)(1)), and (iii) the expense of this litigation to the bankruptcy estate appears very likely to

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CONT...

Liat Talasazan

Chapter 7

exceed any possible future benefits (*but cf.* dkt.282 re unauthorized funding of Debtor's counsel by non-debtor husband). At prior hearings this Court was persuaded not to take any action on the foregoing concerns, pending mediation, but the parties report (adv.dkt.37) that mediation was unsuccessful.

Conversely, assuming for the sake of discussion that for some reason would make any sense to pursue this litigation, Debtor/Plaintiff appears to be unwilling to prosecute it unless and until she can obtain a different forum. She states, in the parties' joint status report (adv.dkt.37, p.4, para.G) that she will seek dismissal of this bankruptcy case and then pursue this litigation in State Court.

The parties are directed to address whether this Court should (i) stay this litigation indefinitely, pending the results of attempts by Debtor and the Subchapter V Trustee to sell or refinance the "Laurel" property, or confirm a chapter 11 plan, or implement other means of restructuring Debtor's finances, (ii) dismiss this adversary proceeding for lack of prosecution if Debtor/Plaintiff does not prosecute it pursuant to the deadlines tentatively set forth below, or (iii) establish some other deadlines or procedures regarding this matter.

(A) Standard requirements

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (docket numbers 26, 37)

(2) Mediation [Intentionally omitted]

(3) Deadlines

This adversary proceeding has been pending since 2/10/20. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Joinder of parties/amendment of pleadings: 10/30/20 deadline.

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CONT...

Liat Talasazan

Chapter 7

Discovery cutoff (for completion of discovery): 11/13/20.

Expert(s) - deadline for reports: 11/20/20

Expert(s) - discovery cutoff (if different from above): 11/20/20

Dispositive motions to be heard no later than: 12/22/20

Joint Status Report: 12/8/20

Continued status conference: 12/22/20 at 1:00 p.m.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: TBD

Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, all appearances are telephonic via CourtCall at (888) 882-6878.

Party Information

Debtor(s):

Liat Talasazan

Represented By
Giovanni Orantes
Luis A Solorzano

Defendant(s):

Oxygen Funding, Inc.

Represented By
Vonn Christenson

Adam Landis Lomax

Represented By
Vonn Christenson

Plaintiff(s):

Liat Talasazan

Represented By

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CONT... Liat Talasazan

Chapter 7

Luis A Solorzano
Giovanni Orantes

Trustee(s):

Caroline Renee Djang (TR)

Pro Se

**United States Bankruptcy Court
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11:00 AM

2:19-23664 Liat Talasazan

Chapter 7

#2.00 Hrg re: Trustee's Motion for Order Authorizing Sale of Real Property [636 N. Laurel Avenue, Los Angeles, CA 90048]: (A) Outside the Ordinary Course of Business; (B) Free and Clear of Liens; (C) Subject to Overbids and (D) For Determination of Good Faith Purchasers Under Section 363(m)

Docket 588

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 4, 5/11/21 at 11:00 a.m.).

Party Information

Debtor(s):

Liat Talasazan

Represented By
Giovanni Orantes
Luis A Solorzano

Trustee(s):

Caroline Renee Djang (TR)

Represented By
David Wood

**United States Bankruptcy Court
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2:19-23664 Liat Talasazan

Chapter 7

#3.00 Cont'd hrg re: Motion for Turnover of Property of the Estate
Pursuant to 11 U.S.C. § 542 35th Street Properties
fr 3/23/21, 4/6/21, 4/27/21

Docket 543

Tentative Ruling:

Tentative Ruling for 5/11/21:

Please see the tentative ruling for the status conference (Calendar No. 4,
5/11/21 at 11:00 a.m.).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Liat Talasazan

Represented By
Giovanni Orantes
Luis A Solorzano

Trustee(s):

Caroline Renee Djang (TR)

Represented By
David Wood

**United States Bankruptcy Court
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11:00 AM

2:19-23664 Liat Talasazan

Chapter 7

#4.00 Cont'd Status Conference re: Chapter 7 Case
fr. 1/28/20, 2/18/20, 3/3/20, 3/10/20, 03/31/20,
4/7/20, 5/12/20, 5/19/20, 6/2/20, 6/16/20, 7/28/20,
8/18/20, 9/1/20, 9/15/20, 9/29/20, 10/27/20, 12/1/20,
12/22/20, 2/9/21, 03/02/21, 3/23/21, 4/6/21

Docket 49

Tentative Ruling:

Tentative Ruling for 5/11/21:

Appearances required.

(1) Current issues

(a) Chapter 7 Trustee's Motion to sell Laurel Property (dkt. 588, 589, 590), Celtic Bank's response (dkt. 594), Oxygen Funding's response (dkt. 595), East West Bank's response (dkt. 598), Tremblay subordination stipulation and order (dkt. 599, 600), Stipulation and order approving debtor's waiver of homestead exemption (dkt. 603, 605), Trustee's omnibus reply (dkt. 606), supplemental papers (dkt. 611-613), and stipulation with Celtic Bank (dkt. 617)

The tentative ruling is to grant the sale motion and authorize a sale free and clear (11 U.S.C. 363(b) & (f)(2), (3) & (5)), subject to overbids, with the "carve outs" agreed to by Tremblay and Celtic Bank.

In addition, the tentative ruling is to grant the request for a "good faith" finding (11 U.S.C. 363(m)) if Omninet Laurel LLC is the successful bidder and, alternatively, subject to the successful bidder or backup bidder filing declaration(s) providing sufficient evidence of good faith (see the Posted Procedures of Judge Bason, available at www.cacb.uscourts.gov) within 7 days after the hearing.

The tentative ruling is also to grant the request to waive the 14-days stay provided by Rule 6004(h) (Fed. R. Bankr. P.).

Proposed order: The Trustee is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

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CONT...

Liat Talasazan

Chapter 7

(b) Subchapter V Trustee's Motion for turnover of 35th Street Properties, accounting re Jefferson property, etc. (dkt. 543, 544), Debtor's response (dkt. 562), Oxygen's joinder (dkt. 568), Subchapter V Trustee's reply (dkt. 569, 570), Order granting motion (dkt. 578)

The parties are directed to update this Court on the status of this motion and address whether any additional relief is appropriate at this time.

(c) Tremblay's motion for relief from stay (dkt. 504), Order denying in substantial part and granting limited relief (dkt. 559), Tremblay's status report (dkt. 583)

If this Court is persuaded to grant the Trustee's sale motion, the tentative ruling is to deny further relief on this motion as moot.

(d) Talasazan v. Oxygen Funding, Inc. ("Oxygen"), et al (2:20-ap-01027-NB) (challenges to Oxygen's asserted liens)

On 9/15/20, this Court ordered this matter stayed and has continued the hearing several times to allow time for the Chapter 7 trustee to evaluate the merits of the claims and determine how to proceed. But if this Court is persuaded to grant the Trustee's sale motion and the sale proceeds are not sufficient to provide a payout to Oxygen, then the tentative ruling is to dismiss this adversary proceeding as moot, because it will make no difference whether Debtor or Oxygen is correct about the validity of Oxygen's asserted liens.

Alternatively, if this Court is not persuaded to grant the sale motion, or the sale proceeds are sufficient to provide anything beyond a nominal payout to Oxygen (*i.e.*, anything that would be worth litigating), then the tentative ruling is to continue this matter concurrent with the continued status conference (see Section (2)(a) below).

(e) Oxygen Funding, Inc. v. Talasazan (2:21-ap-01041-NB) (nondischargeability of debts, or denial of discharge)

Please see the tentative ruling for Calendar No. 1, 5/11/21 at 11:00 a.m.

(2) Deadlines/dates. This case was filed on 11/20/19, converted from chapter 13 to chapter 11 on 1/2/20, designated by Debtor as a Subchapter V case on 3/2/20 (dkt. 128), and converted to chapter 7 on 12/1/20 (dkt. 412).

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CONT...

Liat Talasazan

Chapter 7

(a) Continued status conference: 6/15/21 at 2:00 p.m. No written status report required.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED (see Memorialization of Tentative Rulings, dkt.208 (filed 5/19/20) and dkt.303 (filed 9/21/20). See also Order Denying Motion for Stay (dkt.441, as amended by dkt.442).]

Party Information

Debtor(s):

Liat Talasazan

Represented By
Giovanni Orantes
Luis A Solorzano

Trustee(s):

Caroline Renee Djang (TR)

Pro Se

**United States Bankruptcy Court
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11:00 AM

2:19-23664 Liat Talasazan

Chapter 7

#5.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 3/2/21

MICHAEL TREMBLAY, trustee
vs
DEBTOR

Docket 504

Tentative Ruling:

Tentative Ruling for 5/11/21:

Please see the tentative ruling for the status conference (Calendar No. 4,
5/11/21 at 11:00 a.m.).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Liat Talasazan

Represented By
Giovanni Orantes
Luis A Solorzano

Movant(s):

Michael Tremblay, Trustee

Represented By
David I Brownstein

Trustee(s):

Caroline Renee Djang (TR)

Represented By
David Wood

**United States Bankruptcy Court
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Tuesday, May 11, 2021

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11:00 AM

2:18-22904 Sasha Demovsky-Kapustyan

Chapter 13

Adv#: 2:20-01666 Demovsky-Kapustyan v. Vayntrub et al

#6.00 Cont'd status conference re: Complaint for Turnover of Property of the Estate, Unjust Enrichment fr. 1/26/21, 3/2/21

Docket 1

Tentative Ruling:

Tentative Ruling for 5/11/21:

Continue as set forth below. Appearances are not required on 5/11/21.

(A) Current issues

This Court has reviewed the parties' joint status report (adv. dkt. 25) and the other filed documents and records in this adversary proceeding.

(1) Motion for default judgment against Los Angeles Farmers, Inc.

The tentative ruling is to set a **deadline of 6/29/21** for Plaintiff to file a motion for default judgment against Los Angeles Farmers, Inc., with a hearing concurrent with the continued status conference. The Vayntrub Defendants do not need to appear at the continued status conference and this Court anticipates thereafter setting a further continued status conference for 9/28/21 at 11:00 a.m.

(B) Standard requirements

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.

(1) Venue/jurisdiction/authority

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (see adv. dkt. 10 & 25, and at the hearing on 1/26/21).

(2) Mediation [Intentionally omitted].

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CONT... Sasha Demovsky-Kapustyan

Chapter 13

(3) Deadlines

This adversary proceeding has been pending since 11/16/20.

Joinder of parties/amendment of pleadings-deadline: N/A

Discovery cutoff (for completion of discovery): N/A

Expert(s) - deadline for reports: N/A

Expert(s) - discovery cutoff (if different from above): N/A

Dispositive motions to be heard no later than: N/A

Joint Status Report: No status report required

Continued status conference: 7/20/21 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: N/A

Pretrial conference: N/A

Deliver trial exhibits to other parties and chambers, including direct testimony by declaration unless excused: N/A

Trial commencement: N/A

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Sasha Demovsky-Kapustyan

Represented By
Richard T Baum

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11:00 AM

CONT... Sasha Demovsky-Kapustyan

Chapter 13

Defendant(s):

David Vayntrub

Represented By
Charles Shamash
Joseph E. Caceres

Irena Vayntrub

Represented By
Charles Shamash
Joseph E. Caceres

Absolute Herbal Pain Solutions, Inc.

Represented By
Charles Shamash

Plaintiff(s):

Sasha Demovsky-Kapustyan

Represented By
Richard T Baum

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 1545

11:00 AM

2:19-14137 Zeta Graff

Chapter 7

Adv#: 2:19-01218 Vaatete v. Graff

- #7.00** Cont'd Status Conference re: Complaint to Determine Non-Dischargeability of Debt Pursuant to 11 U.S.C. Section 523(a)(6) and 11 U.S.C. Section 727(c) fr. 9/24/19, 11/12/19, 12/17/19, 1/14/20, 02/18/20, 4/7/20, 6/30/20, 9/29/20, 1/26/21

Docket 1

Tentative Ruling:

Tentative Ruling for 5/11/21:

Continue to 9/28/21 at 11:00 a.m., with a status report due 9/14/21, in view of the scheduled trial in nonbankruptcy court on 8/23/21. See Status Report (adv.dkt. 44). This Court anticipates further continuances until the nonbankruptcy trial has been completed, unless any interim status report reflects a reason to proceed with a status conference in this Bankruptcy Court. Appearances are not required on 5/11/21.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 1/26/21:

Continue to 5/11/21 at 11:00 a.m., with a status report due 4/27/21, in view of the scheduled trial in nonbankruptcy court on 8/23/21. See Status Report (adv.dkt.42). This Court anticipates further continuances until the

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CONT... Zeta Graff

Chapter 7

nonbankruptcy trial has been completed, unless any interim status report reflects a reason to proceed with a status conference in this Bankruptcy Court. Appearances are not required on 1/26/21.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Zeta Graff

Represented By
Michael F Chekian

Defendant(s):

Zeta Graff

Represented By
Zachary D Schorr

Plaintiff(s):

Olivia Vaatete

Represented By
Scott D Dinsmore
Brennan Mitch

Trustee(s):

Sam S Leslie (TR)

Represented By
Elissa Miller

**United States Bankruptcy Court
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1:00 PM

2:17-23714 Fargo Trucking Company, Inc.

Chapter 11

Adv#: 2:19-01464 Fargo Trucking Company Inc Post-Confirmation Commi v. OOCL(USA)

#1.00 Cont'd Status Conference re: Complaint for Contribution on Account of Liability as a Partner for All of the Debts of Fargo Trucking Company Inc. fr. 01/07/20, 01/28/20, 5/5/20, 9/15/20, 12/22/20, 03/02/21

Docket 1

Tentative Ruling:

Tentative Ruling for 5/11/21:

Continue as set forth below. Appearances are not required on 5/11/21.

(A) Current issues

This Court has reviewed the parties' joint status report (adv.dkt. 30) and the other filed documents and records in this adversary proceeding.

(1) This Court will issue an amended scheduling order

The parties have requested that this Bankruptcy Court issue an order "with the same dates and deadlines as those set forth in" District Judge Blumenfeld's scheduling order (adv.dkt.30, Ex.A). But, in view of Judge Blumenfeld's withdrawal of the reference in full, it appears that this Bankruptcy Court lacks jurisdiction or authority to do anything more than continue this status conference and stand ready to address any issues that Judge Blumenfeld might refer individually to this Bankruptcy Court. Accordingly, the tentative ruling is to issue an order vacating this Bankruptcy Court's prior scheduling orders, and setting a continued status conference as set forth below. This Bankruptcy Court intends to prepare and issue such an order after the date of this status conference.

(B) Standard requirements

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority

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1:00 PM

CONT...

Fargo Trucking Company, Inc.

Chapter 11

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (see adv.dkt.15 & 30).

(2) Mediation: [Intentionally omitted]

(3) Deadlines

This adversary proceeding has been pending since 11/5/19. Solely for informational purposes, this Bankruptcy Court notes that the pretrial conference and hearing on motions in limine has been set in the District Court for 11/12/21 at 11:00 a.m. (see adv. dkt. 30, Ex.A, p.2) and trial has been set for 11/29/21 at 8:30 a.m. (see *id.*). In addition, the following additional deadlines apply before this Bankruptcy Court.

Continued status conference: 11/16/21 at 1:00 p.m.

Deadline to file Joint status report: 11/12/21

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Fargo Trucking Company, Inc.

Represented By

Vanessa M Haberbush

David R Haberbush

Lane K Bogard

**United States Bankruptcy Court
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1:00 PM

CONT... Fargo Trucking Company, Inc.

Chapter 11

Defendant(s):

OOCL(USA) Inc., DBA Orient

Represented By
Jeffrey D Cawdrey

Plaintiff(s):

Fargo Trucking Company Inc Post-

Represented By
David R Haberbush
Vanessa M Haberbush

Trustee(s):

Timothy J. Yoo

Pro Se

**United States Bankruptcy Court
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Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 11, 2021

Hearing Room 1545

1:00 PM

2:19-11809 Schaefer Ambulance Service, Inc

Chapter 11

#2.00 Cont'd Status Conference re: Post Confirmation
fr. 02/28/19, 03/12/19, 03/26/19, 04/09/19, 5/21/19,
05/21/19, 06/04/19, 6/18/19, 7/30/19; 08/06/19,
8/20/19, 9/24/19, 10/15/19, 11/5/19, 12/10/19, 12/17/19,
1/14/20, 1/28/20, 02/18/20, 3/10/20, 03/31/20, 4/21/20,
5/2/20, 7/28/20, 9/29/20, 11/10/20, 2/9/21

Docket 1

Tentative Ruling:

Tentative Ruling for 2/9/21:

Continue as set forth below. Appearances are not required on 5/11/21.

(1) Current issues

This Court is not aware of any issues that need to be addressed at this time. The tentative ruling is to continue this status conference in accordance with Debtor's status report (dkt. 723-25).

(2) Deadlines/dates

This case was filed on 2/20/19, and Debtor's plan was confirmed on 5/15/20 (dkt. 630). The tentative ruling is to set a continued post-confirmation status conference for 7/20/21 at 1:00 p.m., with a *brief* status report due 7/6/21.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, all appearances are telephonic via CourtCall at (888) 882-6878.

[PRIOR TENTATIVE RULINGS OMITTED]

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CONT... Schaefer Ambulance Service, Inc

Chapter 11

Party Information

Debtor(s):

Schaefer Ambulance Service, Inc

Represented By
Craig G Margulies
Montserrat Morales

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2:19-18900 FAME Assistance Corporation, a Non Profit Corp.

Chapter 11

#3.00 Cont'd Status Conference re: Chapter 11 Case
fr. 8/20/19, 9/24/19,10/29/19, 11/5/19, 12/17/19,
1/28/20, 03/31/20, 5/5/20, 6/16/20, 7/14/20, 9/15/20,
11/10/20, 12/1/20, 12/8/20, 12/17/20, 1/26/21, 03/02/21
fr. 3/9/21

Docket 1

***** VACATED *** REASON: Order dismissing case entered 4/7/21 (dkt.
213)**

Tentative Ruling:

Party Information

Debtor(s):

FAME Assistance Corporation, a

Represented By
Peter T Steinberg

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2:19-18900 FAME Assistance Corporation, a Non Profit Corp.

Chapter 11

#4.00 Cont'd hrg re: Motion to Dismiss Or Convert Chapter 11 Case
fr. 12/8/20, 12/17/20, 01/26/21, 03/02/21

Docket 160

***** VACATED *** REASON: Moot. Order dismissing case entered 4/7/21
(dkt. 213)**

Tentative Ruling:

Party Information

Debtor(s):

FAME Assistance Corporation, a

Represented By
Peter T Steinberg

Movant(s):

Apex Realty, Inc.

Represented By
James R Selth
Crystle Jane Lindsey
David L. Neale
David L. Neale, Esq
Jeffrey S Kwong

BRG Adams, LLC

Represented By
David L. Neale
Jeffrey S Kwong

**United States Bankruptcy Court
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Hearing Room 1545

1:00 PM

2:19-24048 110 West Properties, LLC

Chapter 11

#5.00 Hrg re: Motion for relief from stay [RP]

FAIRVIEW LOANS IV, LLC
vs
DEBTOR

Docket 231

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 5.4, 5/11/21 at 1:00 p.m.).

Party Information

Debtor(s):

110 West Properties, LLC

Represented By
Gregory K Jones
Jeffrey Huron
Danielle N Rushing
Jong-Ju Chang

Movant(s):

Fairview Loans IV, LLC

Represented By
Aron M Oliner

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Hearing Room 1545

1:00 PM

2:19-24048 110 West Properties, LLC

Chapter 11

#5.10 Cont'd hrg re: Motion for Entry of an Order Authorizing the Debtor to Retain and Compensate Professionals Utilized by the Debtor in Ordinary Course of Business
fr. 1/26/21, 2/9/21, 03/02/21, 4/6/21, 4/27/21

Docket 186

Tentative Ruling:

Tentative Ruling for 5/11/21:

Please see the tentative ruling for the status conference (Calendar No. 5.4, 5/11/21 at 1:00 p.m.).

Tentative Ruling for 4/27/21:

Please see the tentative ruling for the status conference (Calendar No. 21, 4/27/21 at 2:00 p.m.).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

110 West Properties, LLC

Represented By
Gregory K Jones
Jeffrey Huron
Danielle N Rushing

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2:19-24048 110 West Properties, LLC

Chapter 11

#5.20 Cont'd hrg re: Motion to Dismiss Chapter 11 Case
fr. 10/27/20, 12/8/20, 1/26/21, 2/9/21, 03/02/21, 4/6/21,
4/27/21

Docket 145

Tentative Ruling:

Tentative Ruling for 5/11/21:

Please see the tentative ruling for the status conference (Calendar No. 5.4, 5/11/21 at 1:00 p.m.).

Tentative Ruling for 4/27/21:

Please see the tentative ruling for the status conference (Calendar No. 21, 4/27/21 at 2:00 p.m.).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

110 West Properties, LLC

Represented By
Gregory K Jones
Jeffrey Huron
Danielle N Rushing

Movant(s):

Dos Cabezas Properties, LLC

Represented By
Robert P Goe

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Hearing Room 1545

1:00 PM

2:19-24048 110 West Properties, LLC

Chapter 11

#5.30 Combined hrg re: Approval of Disclosure Statement
and Chapter 11 Confirmation of Plan

Docket 227

Tentative Ruling:

Tentative Ruling for 5/11/21:

Please see the tentative ruling for the status conference (Calendar No. 5.4,
5/11/21 at 1:00 p.m.).

Tentative Ruling for 4/27/21:

Please see the tentative ruling for the status conference (Calendar No. 21,
4/27/21 at 2:00 p.m.).

Party Information

Debtor(s):

110 West Properties, LLC

Represented By
Gregory K Jones
Jeffrey Huron
Danielle N Rushing

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2:19-24048 110 West Properties, LLC

Chapter 11

#5.40 Cont'd Status Conference re: Chapter 11 Case
fr. 12/17/19, 1/28/20, 02/18/20, 3/31/20, 4/21/20,
5/12/20, 6/2/20, 6/30/20, 8/18/20, 9/15/20, 10/27/20,
12/8/20, 1/26/21, 2/9/21, 03/02/21, 4/6/21, 4/27/21

Docket 5

Tentative Ruling:

**Tentative Ruling for 5/11/21:
Appearances required.**

(1) Current issues

(a) Debtor's disclosure statement (dkt. 228) and plan of reorganization (dkt. 227), Tarzana Crossing's objection (dkt. 234), Plan support statement of Criscione-Meyer Entitlement and Dos Cabezas (dkt. 236), Debtor's reply (dkt. 237), Redlined plan and disclosure statement (dkt. 239), Order conditionally approving disclosure statement and setting plan confirmation hearing and related deadlines (dkt. 241, "DS/Plan Scheduling Order"), Amended plan (dkt. 243), Amended disclosure statement (dkt. 244), proof of service of voting package (dkt. 249)

The tentative ruling is to continue this matter concurrent with the continued status conference (see Section (2)(d) below), pursuant to this Court's DS/Plan Scheduling Order. If any party wishes to address any discovery dispute(s) they are directed to follow the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov).

(b) Fairview's motion for relief from stay (dkt. 231), Debtor's opposition (dkt. 238), Fairview's reply (dkt. 242), Order setting forth Court's tentative ruling (dkt. 241, "4/29/21 Order"), Debtor's supplemental declaration in support of opposition papers (dkt. 253)

As set forth in this Court's 4/29/21 Order, the tentative ruling is that Fairview must be granted some form of relief, and that the appropriate relief at this stage is to order adequate protection, pursuant to 11 U.S.C. 361, 362(d), and 363(e), to require Debtor to proceed very quickly to attempt to obtain confirmation of its Plan.

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CONT... 110 West Properties, LLC

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Proposed order: Fairview is directed to lodge a proposed order via LOU within 7 days after the hearing date and attach a copy of this Court's tentative ruling, thereby adopting it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1) (B).

(c) Motion of Doz Cabezas Properties, LLC ("Dos Cabezas") to dismiss case (dkt. 145, 166, the "MTD"), Debtor's opposition (dkt. 168), Dos Cabezas's reply (173), Dos Cabezas's supplemental papers (dkt. 179, 182), Debtor's supplemental papers (dkt. 181, 183), Debtor's status report (dkt. 188), Doz Cabezas's supplemental papers (dkt. 193), Debtor's supplemental response (dkt. 197)

The tentative ruling is to continue this matter concurrent with the continued status conference (see Section (2)(d) below).

(d) Debtor's applications to retain and compensate ordinary course professionals (dkt. 186, "Ordinary Course Application"), Opposition of Dos Cabezas (dkt. 194), Debtor's reply (dkt. 198), Stipulation to withdraw Dos Cabezas' opposition and order thereon (dkt. 247, 248)

Based on the arguments and representations at the hearing on 4/27/21 this matter was continued to this date. Debtor should be prepared to address the issues raised in this Court's 4/27/21 tentative ruling (copied below).

(e) Tarzana Crossing v. 110 West Properties, LLC et al. (2:20-ap-01012-NB)

The tentative ruling is to continue this matter concurrent with the continued status conference (see Section (2)(d) below).

(2) Deadlines/dates. This case was filed on 11/29/19.

- (a) Bar date: 3/31/20 (dkt.46, timely served, dkt.49).
- (b) Procedures order: dkt. 2 (timely served, dkt. 8, 9)
- (c) Plan (dkt. 243)/Disclosure Statement (dkt. 244)*: See above.
- (d) Continued status conference: 6/1/21 at 2:00 p.m., concurrent with other matters. No status report is required.

*Warning: special procedures apply (see order setting initial status conference).

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If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 4/2721:
Appearances required.

(1) Current issues

(a) Debtor's disclosure statement (dkt. 228) and plan of reorganization (dkt. 227), Tarzana Crossing's objection (dkt. 234)

There is no tentative ruling. Appearances required.

(b) Motion of Doz Cabezas Properties, LLC ("Dos Cabezas") to dismiss case (dkt. 145, 166, the "MTD"), Debtor's opposition (dkt. 168), Dos Cabezas's reply (173), Dos Cabezas's supplemental papers (dkt. 179, 182), Debtor's supplemental papers (dkt. 181, 183), Debtor's status report (dkt. 188), Doz Cabezas's supplemental papers (dkt. 193), Debtor's supplemental response (dkt. 197)

There is no tentative ruling. The outcome of this motion may depend in part on this Court's rulings on Debtor's Disclosure Statement and Plan.

(c) Debtor's applications to retain and compensate ordinary course professionals (dkt. 186, "Ordinary Course Application"), and employ BBG, Inc., as its appraiser (dkt. 187, "Appraisal Application") (together, the "Applications"), Omnibus opposition of Dos Cabezas (dkt. 194), Debtor's reply (dkt. 198)

The parties should be prepared to address the following issues:

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(i) Service

Debtor's proofs of service filed in support of the Applications (dkt. 186, at pdf p.112-114 and dkt. 187, at pdf pp.23-25, 29-31, 36-38) do not state whether the Applications were served on the twenty largest unsecured creditors as required by LBR 2014-1(a)(2). Debtor should be prepared to address whether those creditors have been served.

(ii) Court approval is required before a "professional" can be employed or paid (11 U.S.C. 327(a))

Section 327(a) states: "Except as otherwise provided in this section, the trustee, with the court's approval, may employ one or more attorneys, accountants, appraisers, auctioneers, or other professional persons, that do not hold or represent an interest adverse to the estate, and that are disinterested persons, to represent or assist the trustee in carrying out the trustee's duties under this title." 11 U.S.C. 327(a).

Under section 327(a) and Rule 2014 (Fed. R. Bankr. P.), chapter 11 debtors are required to obtain court approval before a "professional person" may be employed and paid by the estate. Whether a particular party is a professional person depends upon the nature of services to be performed; the more central the services are to the administration of the estate, the more likely those services will be determined to be professional in nature. *In re That's Entm't Mktg. Grp., Inc.*, 168 B.R. 226, 230 (N.D. Cal. 1994).

(iii) BBG Inc ("BBG")

The tentative ruling is that BBG is a "professional" whose employment must be approved by this Court for the following reasons. First, section 327(a) specifically names "appraisers" as the type of professional that is typically required to be employed by the Court and Debtor does not appear to dispute that characterization. See dkt. 187.

Second, Debtor represents that it intends to sell its real properties, which Debtor concedes "are the primary (if not the only) source of recovery for creditors" and needs an appraiser to gauge the potential value of the properties against any potential offers received. Dkt. 187, pdf pp.2:27-3:8; see also Ex.2, pdf p.13 (describing the intended use of BBG's appraisal as being for "internal purposes related to Chapter 11 restructuring"). The tentative ruling is that such services are central to the administration of

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Debtor's estate and BBG's employment must be authorized by this Court under 327(a).

(iv) Hammonds & Frey and Hunter & Company - generally

In support of its contention that Hammonds & Frey and Hunter & Company are "ordinary course professionals," Debtor cites a string of cases articulating tests of varying degrees for determining whether a particular party is a "professional person" requiring employment under 327(a). Dkt. 186, p.10:3-24 (citing *Matter of D'lites*, 108 B.R. 352, 355 (Bankr. N.D. Ga. 1989) ("professional persons" under section 327(a) does not include parties "who provide services that are necessary whether the petition was filed or not"); *In re Fretheim*, 102 B.R. 298, 299 (Bankr. D. Conn. 1989) (employee's function must be related to the administration of the estate and employee must be given discretion and autonomy in some part of administration of the estate to qualify as professional); *In re Johns-Manville Corp.*, 60 B.R. 612, 621 (Bankr. S.D.N.Y. 1986) (professional must play a part in negotiating a plan, adjusting the debtor/creditor relationship, dispose of or acquire assets, or perform any duties required of a debtor by the Bankruptcy Code); *In re Napoleon*, 233 B.R. 910, 913 (Bankr. D. N.J. 1999) (party must play an integral role in the administration of the bankruptcy case or assist the trustee with important activities, such as obtaining post-petition financing, negotiating creditor claims or formulating plan of reorganization); *In re Riker Industries, Inc.*, 122 B.R. 964, 973 (Bankr. N.D. Ohio 1990) (concluding that whether a person is a professional turns on the degree of autonomy within which the person will operate and the degree of supervision or direction required by the trustee); *In re Sieling Associates Ltd. Partnership*, 128 B.R. 721, 723 (Bankr. E.D. Va. 1991) (services that have only a tangential relationship to the administration of the estate are not professional in nature).

Debtor argues that Hammonds & Frey and Hunter & Company are not "professionals" requiring formal retention under section 327(a) because the services they provide are not specific to the chapter 11 case or debtor's restructuring efforts. Dkt. 186, p.6:9-10. Rather, Debtor states that both companies have been employed by it for ten or more years (dkt. 186, p.6:14-19), that Hammonds & Frey "provides accounting services, including bookkeeping services, tax services and preparation of financial documents" (*id.*, p.6:10-12), and Hunter & Company provides management/administrative services, including financial management, keeping Debtor's members

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apprised of the business operations, assisting in preparing monthly operating reports and other administrative services (*id*, p.6:14-19).

(v) Hammonds & Frey

The tentative ruling is that Hammonds & Frey is likely a "professional" whose employment must be approved by this Court. First, section 327(a) specifically names "accountants" as the type of professional that is typically required to be employed by the Court. 11 U.S.C. 327(a). Although Debtor argues that Hammonds & Frey is not providing services specific to the Debtor's bankruptcy case, that is undercut by the parties' own agreement, which contemplates Hammonds & Frey assisting Debtor with the preparation of Monthly Operating Reports ("MORs") and other important financial disclosures required by the Bankruptcy Code. See Dkt. 186, pdf p.29 ("[y]ou have requested that we prepare the financial statements of 110 West Properties, LLC, which comprise interim monthly balance sheet as of April 30, 2020 and interim months following, and the related profit and loss statements in the form prescribed by the Office of the United States Trustee Regional Headquarters.") Dkt. 186, pdf p.29.

Second, Debtor's monthly operating reports demonstrate that Debtor is not an operating business with routine functions requiring common accounting services (see, e.g., dkt. 195, 196), and Debtor's papers do not make clear what "ordinary course" services Hammonds & Frey might have provided post-petition to account for its \$18,497 bill. Dkt. 186, p.7:3-4. On this record, this Court is inclined to conclude that Hammonds & Frey's services are central to the Debtor's administration.

(vi) Hunter & Company

The tentative ruling is that Hunter & Company likely is a "professional" whose employment must be approved by this Court, but Debtor has not provided sufficient evidence of what services Hunter & Company provides.

Debtor argues that Hunter & Company is not providing services specific to Debtor's bankruptcy case, but that assertion is undercut by Debtor's own representation that Hunter & Company is "assisting in preparing monthly operating reports, and other administrative services," (dkt. 186, p.6:18-19) and the fact that Debtor is not an operating business. This also raises concerns about whether there has been a duplication of services with Hammonds & Frey. Additionally, even when Debtor was able to operate a

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parking facility before COVID-19 closures, Hunter & Company's "Services Agreement" makes clear that it provides services "unrelated to the direct management of the parking facilities." Dkt. 186, pdf p.96. Debtor's papers do not make clear what "ordinary course" services Hunter & Company might have provided post-petition to account for its \$40,392.44 bill. Dkt. 186, p.7:6-9. On this record, this Court is inclined to conclude that Hunter & Company's services are central to the Debtor's administration.

The parties should be prepared to address whether this Court should require Debtor to submit supplemental declaration(s) establishing what post-petition services Hammonds & Frey and Hunter & Company have provided.

(vii) Professionals must be "disinterested"

Under 11 USC 327(a), professionals may not hold or represent any interests adverse to the estate and must be disinterested persons. Section 101(14)(A) defines a "disinterested person" as one who, among other things, "is not a creditor . . ." of the estate.

Rule 2014 (Fed. R. Bankr. P.), Local Bankruptcy Rule ("LBR") 2014-1(b)(1)(B) and Judge Bason's Posted Procedures (available at www.cacb.uscourts.gov) require professionals to establish their disinterestedness and disclose the nature of any actual or potential conflicts of interest by filing local form F 2014-1.STMT.DISINTEREST.PROF (statement of disinterestedness).

"Full disclosure is an essential prerequisite for both employment and compensation." *In re Triple Star Welding, Inc.*, 324 B.R. 778, 788-89 (9th Cir. BAP 2005). The disclosure requirements of Rule 2014 are to be strictly applied and bankruptcy courts do not have discretion to waive the requirement of a Rule 2014 statement. *Id.* at 779-90. "Pursuant to section 327, a professional has a duty to make full, candid and complete disclosure of all facts concerning his transactions with the debtor. Professionals must disclose all connections with the debtor, creditors and parties in interest, no matter how irrelevant or trivial those connections may seem." *In re Mehdipour*, 202 B.R. 474, 480 (9th Cir. BAP 1996) (internal citations omitted).

(ix) BBG

In support of the Appraisal Application, BBG submitted a statement of disinterestedness (dkt. 187, pdf pp.32-34). Although Dos Cabezas' raises certain objections regarding BBG's disclosures (dkt. 194, p.5:15-25), it has

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not cited any authority establishing that BBG should be disqualified simply because it has provided appraisals for Debtor's affiliates in the past. The tentative ruling is that BBG is disinterested and does not hold any interests adverse to the estate.

(x) Hammonds & Frey and Hunter & Company

Neither the Ordinary Course Application nor Debtor's reply papers include verified statements of disinterestedness from Hammonds & Frey or Hunter & Company affirming that they do not hold any interests adverse to the estate and are disinterested, so on that ground alone their employment cannot be approved.

Additionally and alternatively, neither Hammonds & Frey nor Hunter & Company are disinterested, because they both hold claims against Debtor's estate. See Claims 3 & 5; 11 U.S.C. 101(14)(A) ("[t]he term 'disinterested person' means a person that – (A) is not a creditor ...").

Additionally and alternatively, although Debtor correctly points out that Dos Cabezas' arguments are premised on a certain amount of speculation about possible conflicts of interests, Debtor does not squarely address the full extent and nature of those relationships or explain why it included a statement of disinterestedness in support of the Appraiser Application, but not for Hammonds & Frey or Hunter & Company. This is all the more troubling because there appears to be a lot of interlocking relationships between Debtor's management and owners of adjacent properties and insiders. See, e.g., Dkt. 186, pdf pp.102-07 (agreement between Ian Hunter, Shamrock Parking, Inc., Debtor, and other entities).

The parties should be prepared to address whether Hammonds & Frey and Hunter & Company are prepared to waive their claims and whether Debtor should be provided an opportunity to file supplemental declarations addressing these issues.

(xi) "Nunc pro tunc," retroactive relief, or employment as of a prior date

Debtor seeks what is characterizes as *nunc pro tunc* approval of BBG's, Hammond & Frey's and Hunter & Company's employment and compensation. First, there is actually a difference between *nunc pro tunc* orders, or "now for then" orders, which are supposed to be reserved for ministerial matters and correction of a court's own errors, and "retroactive"

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relief, which may be authorized by statute or other authority.

Moreover, there may be a difference between making employment "retroactive" and authorizing employment as of an earlier date. From the instant the bankruptcy petition is filed a professional's compensation is contingent on subsequent authorization for the professional's employment, but that contingency does not mean that the authorization itself has to be retroactive.

In any event, regardless of the semantic differences, the issue is whether the professionals whose employment is at issue can qualify for compensation for work that they performed before they sought this Bankruptcy Court's approval of their employment.

(xii) Supreme Court authority; and the standards for relief

The ability to authorize any of the foregoing types of relief has been called into question by the Supreme Court's decision *Roman Catholic Archdiocese of San Juan, Puerto Rico v. Acevedo Feliciano*, 140 S.Ct 696 (2020). Courts have not been consistent in their application of *Acevedo*.

Some courts have interpreted it to prohibit essentially all retroactive relief, as noted by the Bankruptcy Appellate Panel of the Ninth Circuit (the "BAP"). *In re Merriman*, 616 B.R. 381, 391 (9th Cir. BAP 2020) (citing *In re Telles*, No. 8-20-70325-reg, 2020 WL 2121254 (Bankr. E.D.N.Y. Apr. 30, 2020)). Another interpretation is that, although employment cannot be retroactive, compensation can be. See *In re Miller*, 620 B.R. 637, 638 (Bankr. E.D. Cal. 2020). More generally, the BAP has interpreted *Acevedo* as primarily focused on jurisdiction, not retroactive relief generally. See *Merriman*, 616 B.R. 381, 392-95.

The tentative ruling is to agree with *Merriman*. In appropriate circumstances professionals' employment can be approved as of a date prior when their application was filed, but they must satisfy the traditional standards for such relief. Professionals must "(1) satisfactorily explain their failure to receive prior judicial approval; and (2) demonstrate that their services benefitted the bankruptcy estate in a significant manner." *In re Atkins*, 69 F.3d 970, 974 (9th Cir. 1995); see also *In re THC Fin. Corp.*, 837 F.2d 389 (9th Cir. 1988).

(xiii) BBG

BBG's employment application was filed on 1/5/21. Debtor submits

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that employment and compensation are warranted for BBG because Debtor initially believed that BBG's services were obtained in Debtor's ordinary course of business and filed the Appraiser Application once it was brought to its attention that BBG likely did qualify as a professional under 327(a). Dkt. 187, p.7:18-22. Debtor also submits that BBG's services benefitted the estate in a significant manner because the appraisal has provided debtor with better evidence to gauge incoming offers for the sale of its properties and to better evaluate its options in the administration of the estate. *Id.* p.7:22-25.

The tentative ruling is to authorize BBG's employment under 11 U.S.C. 327(a) and 328, effective as of the date when its services first were rendered. The tentative ruling is also to retroactively authorize BBG's compensation to 7/7/20, so that it may retain the entirety of the \$4,500 flat fee it received in compensation.

(xiv) Hammonds & Frey and Hunter & Company

The tentative ruling is that Debtor has not adequately briefed the foregoing issues with respect to Hammonds & Frey and Hunter & Company. Although Debtor cites *Acevedo*, Debtor simply concludes that granting its request for retroactive relief "does not seek to 'creat[e] 'facts'" or rewrite history" because Debtor believes that Hammonds & Frey and Hunter & Company do not require formal retention under section 327. Dkt. 186, p.11:23-27. The tentative ruling is that this is insufficient. The parties should be prepared to address a deadline for supplemental papers.

(xv) Proposed ordinary course professionals procedures

The tentative ruling is to grant Debtor's proposed procedures for disclosing any parties Debtor seeks to employ in the ordinary course of its business to allow other parties in interest an opportunity to object to such classification and request a hearing for this Court to determine whether an employment application under 11 USC 327 is appropriate.

(d) Tarzana Crossing v. 110 West Properties, LLC et al. (2:20-ap-01012-NB)

There is no tentative ruling. The outcome of this motion may depend in part on this Court's rulings regarding Debtor's Disclosure Statement and Plan.

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- (2) Deadlines/dates. This case was filed on 11/29/19.
- (a) Bar date: 3/31/20 (dkt.46, timely served, dkt.49).
 - (b) Procedures order: dkt. 2 (timely served, dkt. 8, 9)
 - (c) Plan (dkt. 227)/Disclosure Statement (dkt. 228)*: See above.
 - (d) Continued status conference: 5/11/21 at 1:00 p.m., concurrent with other matters. No status report is required.
- *Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 4/6/21:
Appearances required.

(1) Current issues

(a) Debtor's Sale/Settlement Motion (dkt. 212, amended by dkt. 217), opposition of Tarzana Crossing (dkt. 219), Debtor's reply (dkt. 224)

The tentative ruling is to deny the motion for the following reasons.

(i) Proposed sale of Properties

Debtor seeks approval of a sale of substantially all of its assets to Criscione-Meyer Entitlement ("Buyer") for \$22,000,000 pursuant to 11 U.S.C. 363(b) & (f). The proposed purchase price is to be paid as follows. Debtor will receive an immediate cash payment of \$10,000,000 and a promissory note due in full in 24 months at 3% annual percentage rate, a deed of trust securing the remaining \$12,000,000, and a guaranty. Dkt. 217, pp.8:17-9:19.

(A) Legal standard

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Under 11 U.S.C. 363(b), the Debtor may sell estate property out of the ordinary course of business, subject to court approval. The Debtor must articulate a sufficient business reason for the sale. *In re Wilde Horse Enters., Inc.*, 136 B.R. 830, 841 (Bankr. C.D. Cal. 1991). In determining whether a sale satisfies the business judgment standard, courts must find that the sale "is in the best interests of the estate, *i.e.*, that it is fair and reasonable, that it has been given adequate marketing, that it has been negotiated and proposed in good faith, that the purchaser is proceeding in good faith, and that it is an 'arms length' transaction." *Id.* at 841-42. Whether the articulated business justification is sufficient "depends on the case," in view of "all salient factors pertaining to the proceeding." *In re Walter*, 83 B.R. 14, 19-20 (9th Cir. BAP 1988). In proposing a sale outside of the ordinary course, Debtor has the burden of demonstrating that the sale is in the best interests of the estate. *Wilde Horse*, 136 B.R. at 841.

(B) Debtor has not carried its burden of demonstrating that the sale is in the best interests of the estate

(1) Sound business purpose/adequate disclosures

The "key to the reorganization Chapter ... is *disclosure*" *Wilde Horse*, 136 B.R. at 841 (emphasis in original). "The essential purpose served by disclosure is to ensure that parties in interest are not left entirely at the mercy of the debtor and others having special influence over debtor." *Id.* Accordingly, "[a] sale of substantially all of debtor's property outside the ordinary course of business, and without a Chapter 11 disclosure statement and plan, must be closely scrutinized." *Id.* (citation omitted); *In re Lionel Corp.*, 722 F.2d 1063, 1069 (2d Cir. 1983) (reversing a approval of asset sale after holding that 11 U.S.C. 363 does not "gran[t] the bankruptcy judge *carte blanche*" or "swallo[w] up Chapter 11's safeguards"); *In re Braniff Airways, Inc.*, 700 F.2d 935, 940 (5th Cir. 1983) (prohibiting an attempt "to short circuit the requirements of Chapter 11 for confirmation of a reorganization plan by establishing the terms of the plan *sub rosa* in connection with a sale of assets").

For the reasons stated in Tarzana Crossing's opposition papers (dkt. 219, p.7:2-19) and this Court's own review of the sale ballots (dkt. 224, Ex.A), this Court has concerns that Debtor may be intentionally or inadvertently circumventing important procedural safeguards by failing to provide its members with meaningful and comprehensive disclosures about the

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proposed sale and settlement with one of the prior defaulting buyers. This includes, but is not limited to, whether Debtor's members were adequately informed of their ability to vote "no" on the sale ballot, the potentially significant adverse tax consequences, and the identity and current financial wherewithal of the proposed Buyer.

Debtor also balks at Tarzana Crossing's assertion that Debtor was obligated to disclose potentially adverse tax consequences arising from the sale (dkt. 224, pp.3:19-4:3). But Debtor offers no explanation for why that should not have been disclosed prior to any voting. By electing to proceed under section 363(b), Debtor appears to be depriving creditors from receiving "adequate information" as required by 11 U.S.C. 1125(a)(1), which provides for disclosure of:

information of a kind, and in sufficient detail, as far as is reasonably practicable in light of the nature and history of the debtor and the condition of the debtor's books and records, including a discussion of the potential material Federal tax consequences of the plan to the debtor, any successor to the debtor, and a hypothetical investor of the relevant class to make an informed judgment about the plan [11 U.S.C. 1125(a)(1)]

For the foregoing reasons, the tentative ruling is that Debtor has not sufficiently articulated a sound business justification for electing to sell the Properties through section 363 in lieu of a plan.

(2) Fair and reasonable sale price

The tentative ruling is that Debtor has not presented sufficient evidence for this Court to find that the \$22,000,000 sale price is fair and reasonable. True, the sale price greatly exceeds any other offers Debtor has received, but this Court questions why Debtor would so willingly repackage a sale to one of the defaulting buyers, at a \$13,000,000 discount, despite the parties' contentious past.

Debtor has not presented evidence establishing that the Properties were adequately marketed to justify a private sale to one of the prior defaulting buyers.

Debtor's alleged marketing efforts are broadly described as consisting of Colliers International (x) "distributing marketing materials to prospective potential purchasers of the Properties," (y) "engaging in multiple discussions with prospective potential purchasers," and (z) "initiating a call for offers to thousands of prospective potential investors, developers, real estate agents,

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buyers, etc.," on 11/16/20." Dkt. 217, p.6:22-27 & Dkt. 183. Debtor further states that in response to the call for offers, Colliers received three offers, ranging from \$8,000,000 to \$13,300,000, which have now all expired. *Id.* pp.6:28-7:2.

But this Court's 12/8/20 tentative ruling expressed concerns with the adequacy of the marketing efforts up to that point:

First, Debtor is directed to address why the flyer distributed by Collier included the banner "Bankruptcy Court Approved" (dkt.180, Ex.1, *and* dkt.183, Ex.1). This Court has not approved any sale (although this Court has approved the employment of Colliers to market of the subject property). In fact, there are open questions about whether Debtor even has the ability to sell the subject property without Dos Cabezas' consent.

Second, Debtor is directed to address how it proposes to disclose to prospective purchasers of the properties the fact that Debtor is seeking to sell the subject property before the State Court has determined the underlying disputes with Dos Cabezas. True, as noted in the tentative ruling for 10/27/20, it is possible that Debtor can distinguish *In re Popp*, 323 B.R. 260, 268 (9th Cir. BAP 2005), and *In re Owens-Johnson*, 118 B.R. 780 (Bankr. S.D. Cal. 1990). But the tentative ruling is that Debtor has to disclose to prospective purchasers that (as this Court understands the issues) Dos Cabezas is asserting that (i) Debtor does not own the subject property, and therefore cannot sell it, and alternatively (ii) a sale under 11 U.S.C. 363(b) and (f) should not, or cannot, be used to defeat a claim for specific performance.

In other words, Debtor is directed to address (in consultation with Colliers) how it will disclose to prospective purchasers the potential obstacles to selling the property, without either misleading purchasers or unduly chilling any potential bidding. Of course, this Court recognizes that in chapter 11 there is a certain degree of deference to the business judgment of Debtor, in consultation with Colliers, regarding how best to market the subject property and when and how to provide disclosures. This Court also recognizes that Dos Cabezas might decide that it is in its own interest to consent to the sale (while preserving whatever interests or claims it might have regarding the proceeds of sale), so as to (i) maximize

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the value of the bankruptcy estate's asserts, (ii) stop the running of interest - especially any default interest - owed to the senior lienholder, and thereby (iii) maximize the funds from which its claim and/or equity interests could receive distributions.

But Debtor's flyer ("Bankruptcy Court Approved," dkt.183, Ex.1, at PDF p.9), combined with Debtor's apparently cavalier attitude toward employment and compensation of professionals (see below), raise concerns about whether Debtor and Colliers are not exercising their business judgment appropriately. Debtor is cautioned that failure to exercise proper business judgment, and act as a trustee for the benefit of creditors, might lead to adverse consequences. [See Tentative Ruling for Calendar No. 21, 12/8/20 at 1:00 p.m.]

At the hearing on 12/8/20, this Court orally directed Debtor to file supplemental declaration(s) addressing the foregoing issues. On 1/5/21, Debtor timely filed a status report, but the only additional information Debtor provided in connection with its marketing efforts was that "[t]he proposed buyers who submitted offers for the Properties were advised of the State Court litigation and lis pendens affecting the Properties." Dkt. 188, p.5:24-25. Debtor's status report only raises further questions. Did Collier conduct any further marketing efforts following its November 2020 call for offers? What disclosures were provided to the three interested buyers and/or any other interested buyers? Could such disclosures have had the opposite affect of what this Court was concerned might happen, and instead chilled bidding? If Debtor's \$22,000,000 appraisal is accurate, why were the offers Debtor received (prior to disclosing its existing litigation) so low?

For the foregoing reasons, the tentative ruling is that Debtor has not carried its burden as to this factor.

(ii) Proposed settlement with mutual releases

In conjunction with the proposed sale Debtor also seeks approval of a global settlement with mutual releases between Debtor, the proposed Buyer, Dos Cabezas, Michael Criscione and Michael Meyer that would resolve outstanding litigation. Dkt. 217, pp.18:16-22:3. The tentative ruling is that without further disclosures, this Court is skeptical about the propriety of the proposed settlement. The Debtor's papers do not make clear what consideration Dos Cabezas, Michael Criscione and Michael Meyer are

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receiving in exchange for the consideration being provided to the estate and execution of the mutual releases. Nor is it clear whether the mutual releases attempt to circumvent 11 U.S.C. 524(e)'s prohibition against third-party releases by dismissing any claims against non-settling third-parties, such as RU, LLC, who is also a defendant in the Derivative Action. See Adv. No. 2:20-ap-01012-NB, dkt. 1.

(b) Motion of Doz Cabezas Properties, LLC ("Dos Cabezas") to dismiss case (dkt. 145, 166, the "MTD"), Debtor's opposition (dkt. 168), Dos Cabezas's reply (173), Dos Cabezas's supplemental papers (dkt. 179, 182), Debtor's supplemental papers (dkt. 181, 183), Debtor's status report (dkt. 188), Doz Cabezas's supplemental papers (dkt. 193), Debtor's supplemental response (dkt. 197)

There is no tentative ruling. The outcome of this motion may depend in part on whether this Court adopts its Tentative Ruling for the Sale/Settlement Motion.

(c) Debtor's applications to retain and compensate ordinary course professionals (dkt. 186, "Ordinary Course Application"), and employ BBG, Inc., as its appraiser (dkt. 187, "Appraisal Application") (together, the "Applications"), Omnibus opposition of Dos Cabezas (dkt. 194), Debtor's reply (dkt. 198)

The tentative ruling is to continue this matter concurrent with the continued status conference (see Section 2(d) below).

(d) Tarzana Crossing v. 110 West Properties, LLC et al. (2:20-ap-01012-NB)

There is no tentative ruling. The outcome of this motion may depend in part on whether this Court adopts its Tentative Ruling for the Sale/Settlement Motion.

(2) Deadlines/dates. This case was filed on 11/29/19.

(a) Bar date: 3/31/20 (dkt.46, timely served, dkt.49).

(b) Procedures order: dkt. 2 (timely served, dkt. 8, 9)

(c) Plan/Disclosure Statement*: N/A

(d) Continued status conference: 5/11/21 at 1:00 p.m., *Brief* status report due 4/27/21.

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*Warning: special procedures apply (see order setting initial status conference).

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Tentative Ruling for 3/2/21:

[Intentionally omitted]

Tentative Ruling for 12/8/20:

Appearances required.

(1) Current issues

(a) Motion of Doz Cabezas Properties, LLC ("Dos Cabezas") to dismiss case (dkt. 145, 166), Debtor's opposition (dkt. 168), Dos Cabezas's reply (173), Dos Cabezas's supplemental papers (dkt. 179, 182), Debtor's supplemental papers (dkt. 181, 183)

The tentative ruling is not to strike the latest, unauthorized briefs. In any event, with or without considering them, the tentative ruling is to deny the motion to dismiss this case, without prejudice, for the reasons stated in this Court's tentative ruling for 10/27/20 (copied below), with the following caveats.

First, Debtor is directed to address why the flyer distributed by Collier included the banner "Bankruptcy Court Approved" (dkt.180, Ex.1, *and* dkt.183, Ex.1). This Court has not approved any sale (although this Court has approved the employment of Colliers to market of the subject property). In fact, there are open questions about whether Debtor even has the ability to sell the subject property without Dos Cabezas' consent.

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Second, Debtor is directed to address how it proposes to disclose to prospective purchasers of the properties the fact that Debtor is seeking to sell the subject property before the State Court has determined the underlying disputes with Dos Cabezas. True, as noted in the tentative ruling for 10/27/20, it is possible that Debtor can distinguish *In re Popp*, 323 B.R. 260, 268 (9th Cir. BAP 2005), and *In re Owens-Johnson*, 118 B.R. 780 (Bankr. S.D. Cal. 1990). But the tentative ruling is that Debtor has to disclose to prospective purchasers that (as this Court understands the issues) Dos Cabezas is asserting that (i) Debtor does not own the subject property, and therefore cannot sell it, and alternatively (ii) a sale under 11 U.S.C. 363(b) and (f) should not, or cannot, be used to defeat a claim for specific performance.

In other words, Debtor is directed to address (in consultation with Colliers) how it will disclose to prospective purchasers the potential obstacles to selling the property, without either misleading purchasers or unduly chilling any potential bidding. Of course, this Court recognizes that in chapter 11 there is a certain degree of deference to the business judgment of Debtor, in consultation with Colliers, regarding how best to market the subject property and when and how to provide disclosures. This Court also recognizes that Dos Cabezas might decide that it is in its own interest to consent to the sale (while preserving whatever interests or claims it might have regarding the proceeds of sale), so as to (i) maximize the value of the bankruptcy estate's assets, (ii) stop the running of interest - especially any default interest - owed to the senior lienholder, and thereby (iii) maximize the funds from which its claim and/or equity interests could receive distributions.

But Debtor's flyer ("Bankruptcy Court Approved," dkt.183, Ex.1, at PDF p.9), combined with Debtor's apparently cavalier attitude toward employment and compensation of professionals (see below), raise concerns about whether Debtor and Colliers are not exercising their business judgment appropriately. Debtor is cautioned that failure to exercise proper business judgment, and act as a trustee for the benefit of creditors, might lead to adverse consequences.

(b) Apparently unauthorized retention and payment of professionals

Debtor is directed to address the apparently unauthorized employment and payment of persons who appear to be professionals: Hammonds & Frey (accounting/tax services), Hunter & Co. (management), and BBG, Inc.

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(appraisal). See dkt.179, p.4:3-23. Debtor alleges (dkt.181, pp.4:23-5:27) that none of these services are "central to the administration of the estate," and instead are "ordinary course" payments that purportedly do not require Court authorization. But, first, there is no evidence to support those allegations and, second, Debtor's explanation raises its own concerns - for example, it is potentially troubling if Debtor is relying on someone to do accounting and tax services who is not addressing the bankruptcy-specific aspects of accounting and tax issues (*i.e.*, if they do not qualify as professionals, that in itself might be problematic).

The tentative ruling is to set a **deadline of 1/5/21** for Debtor and/or those persons to file and serve on all parties in interest either (i) applications for employment, including any authority for retroactive authorization, or (ii) briefs and evidence as to why such persons are not professionals and/or why the payments to them are "ordinary course" and/or whatever other arguments they assert as to why notice, a hearing, and this Court's prior authorization for employment and payment allegedly were not required. The tentative ruling is to set **deadlines of 1/12/21 for any responses, and 1/19/21 for any replies.**

(2) Deadlines/dates. This case was filed on 11/29/19.

(a) Bar date: 3/31/20 (dkt.46, timely served, dkt.49).

(b) Procedures order: dkt. 2 (timely served, dkt. 8, 9)

(c) Plan/Disclosure Statement*: N/a

(d) Continued status conference: 1/26/21 at 1:00 p.m. *Brief* status report due 12/29/20.

*Warning: special procedures apply (see order setting initial status conference).

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rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 10/27/20:
Appearances required.

(1) Current issues

(a) Doz Cabezas Properties, LLC's ("Dos Cabezas") motion to dismiss case (dkt. 145, 166), Debtor's opposition (dkt. 168), Dos Cabezas's reply (173)

The tentative ruling is to deny the motion without prejudice on the grounds that this Court is not persuaded that, on the present record, sufficient "cause" exists under 11 U.S.C. 1112(b)(4) to convert or dismiss this case.

First, litigation takes time and Dos Cabezas has not presented sufficient evidence to persuade this Court that Debtor is not diligently prosecuting this bankruptcy case and the State Court action. To the contrary, Debtor's prosecution of this case appears to be reasonable in light of the uncertainty and challenges presented by COVID-19, the resulting backlog in state courts, and the great deal of latitude afforded to debtors exercising their business judgment about matters of case administration.

Second, Dos Cabezas' reliance on *In re Popp*, 323 B.R. 260, 268 (9th Cir. BAP 2005), and *In re Owens-Johnson*, 118 B.R. 780 (Bankr. S.D. Cal. 1990), is not dispositive. True, it is likely that Debtor's anticipated motion to sell the subject property will be subject to objections based on arguments that (i) Debtor cannot sell what it does not own and (ii) a sale under 11 U.S.C. 363(b) and (f) should not, or cannot, be used to defeat a claim for specific performance. But (x) this Court cannot presume, in advance, that those anticipated objections will prevail, (y) even if a sale were blocked, Debtor has other options (e.g., proposing a plan of reorganization, or waiting until a determination in the State Court litigation that Debtor has an ownership interest in the subject property, and therefore can sell it), and (z) even if all of those things were to turn out in future not to be viable options, it is premature to dismiss this case based on that future possibility.

(b) Dos Cabezas Properties, LLC, Criscione-Meyer Entitlement, Michael Criscione and Michael Meyer's ("Movants") omnibus objection to proofs of claim (dkt. 121, "Claim Objections") 4-1/4-2, 6-1, 7-1, 8-1, 9-1, 10-1,

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11-1, 12-1, 13-1, 14-1, 15-1, 16-1, 17-1, 18-1, 19-1, 20-1, 22-1, 23-1/23-2, 24-1, 25-1, 26-1, 27-1, 29-1, 31-1, 32-1, 33-1, 34-1, 35-1, 36-1 and 37-1 ("the Claims"), stipulation & order continuing hearing (dkt. 129, 131), Tarzana Crossing, a Merchant Faire, LLC's ("Tarzana Crossing") opposition (dkt. 137), no reply is on file

Appearances required. At the hearing on 8/18/20 this Court was persuaded to continue this matter, rather than adopt the tentative ruling (reproduced below). The parties should be prepared to address the issues set forth in that tentative ruling and their filed papers.

(2) Deadlines/dates. This case was filed on 11/29/19.

(a) Bar date: 3/31/20 (dkt.46, timely served, dkt.49).

(b) Procedures order: dkt. 2 (timely served, dkt. 8, 9)

(c) Plan/Disclosure Statement*: N/a

(d) Continued status conference: 12/8/20 at 1:00 p.m. *Brief* status report due 11/24/20.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, all appearances are telephonic via CourtCall at (888) 882-6878.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

110 West Properties, LLC

Represented By
Gregory K Jones
Jeffrey Huron
Danielle N Rushing

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2:19-24048 110 West Properties, LLC

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Adv#: 2:20-01012 Tarzana Crossing, a Merchant Faire, LLC v. 110 West Properties, LLC et al

#5.50 Cont'd hrg re: Motion of Creditors/Defendants Dos Cabezas Properties, LLC, Criscione-Meyer Entitlement, a Limited Liability Company Cell of Almond Tree Capital Management Co., LLC, Michael Criscione to Remand Tarzana Crossing, A Merchant Faire, LLC's Complaint and Request for Attorney's Fees in the Amount of \$2,800.00
fr. 03/31/20, 5/12/20, 6/30/20, 8/18/20, 10/27/20, 12/8/20, 1/26/21, 2/9/21, 03/02/21, 4/6/21, 4/27/21

Docket 7

Tentative Ruling:

Tentative Ruling for 5/11/21:

Please see the tentative ruling for the adversary status conference (Calendar No. 5.6, 5/11/21 at 1:00 p.m.).

Tentative Ruling for 4/27/21:

Please see the tentative ruling for the adversary status conference (Calendar No. 21, 4/27/21 at 2:00 p.m.).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

110 West Properties, LLC

Represented By
Gregory K Jones
Jeffrey Huron
Danielle N Rushing

Defendant(s):

110 West Properties, LLC

Represented By
Gregory K Jones
Jeffrey Huron

RU, LLC

Pro Se

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Dos Cabezas Properties, LLC

Represented By
Thomas F Nowland
Robert P Goe
Charity J Manee

Criscione-Meyer Entitlement, LLC

Represented By
Thomas F Nowland

Michael Criscione

Represented By
Thomas F Nowland

First American Title Company

Pro Se

Movant(s):

Dos Cabezas Properties, LLC

Represented By
Thomas F Nowland
Robert P Goe
Charity J Manee

Criscione-Meyer Entitlement, LLC

Represented By
Thomas F Nowland

Michael Criscione

Represented By
Thomas F Nowland

Plaintiff(s):

Tarzana Crossing, a Merchant Faire,

Represented By
Alan M Feld
Peter C. Bronson
Peter C Bronson

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#5.60 Cont'd Status Conference re: Notice of Removal
fr. 03/31/20, 5/12/20, 6/30/20, 8/18/20, 10/27/20
12/8/20, 1/26/21, 2/9/21, 03/02/21, 4/6/21, 4/27/21

Docket 1

Tentative Ruling:

Tentative Ruling for 5/11/21:

Please see the tentative ruling for the main case status conference (Calendar No. 5.4, 5/11/21 at 1:00 p.m.).

Tentative Ruling for 4/27/21:

Please see the tentative ruling for the main case status conference (Calendar No. 21, 4/27/21 at 2:00 p.m.).

Tentative Ruling for 4/6/21:

Please see the tentative ruling for the main case status conference (Calendar No. 20, 4/6/21 at 1:00 p.m.).

Tentative Ruling for 3/2/21:

Please see the tentative ruling for the main case status conference (Calendar No. 23, 3/2/21 at 1:00 p.m.).

Tentative Ruling for 12/8/20:

Appearances required.

(1) Current issues

(a) Motion for remand (adv. dkt. 7, "Remand Motion") and supporting declaration (adv. dkt. 8), Plaintiff's opposition (adv. dkt. 10), Movants' reply (adv. dkt. 12)

This matter has been continued several times to allow time for the parties to participate in settlement negotiations. The tentative ruling is to continue this matter again, concurrent with the status conference in the main

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case, in view of Debtor's report (main case, dkt.180, p.5:17-20) that Debtor and Tarzana Crossing have tentatively reached a settlement for which Debtor intends to seek approval.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 10/27/20:

[Intentionally omitted]

Tentative Ruling for 8/18/20:

Appearances required.

Pursuant to Judge Bason's COVID19 Procedures, **ONLY TELEPHONIC APPEARANCES WILL BE PERMITTED until further notice.** Please contact CourtCall at (888) 882-6878 to make arrangements for any telephonic appearance. There is no need to contact the Court for permission. Parties who are not represented by an attorney will be able to use CourtCall for free through 9/30/20. Attorneys will receive a 25% discount (for more information, see www.cacb.uscourts.gov, "Judges," "Bason, N.," "Telephonic Instructions").

(1) Current issues

(a) Motion for remand (adv. dkt. 7, "Remand Motion") and supporting declaration (adv. dkt. 8), Plaintiff's opposition (adv. dkt. 10), Movants' reply (adv. dkt. 12)

This matter was continued to allow time for the parties to participate in

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a second round of mediation, which was been scheduled to take place on 7/17/20 (Main Case, dkt. 129, p.2:7-8). On 8/4/20, Debtor filed a status report (Main Case, dkt. 136, p.4:22-26) stating that "the parties were unable to resolve their disputes [at the mediation, but] are continuing to make efforts to resolve their disputes through Mr. Gould."

There is no tentative ruling, but the parties should be prepared (a) to provide this Court with any updates on the status of those negotiations (if any) and (b) to address whether this matter should be further continued or this Court should rule on the merits of the Remand Motion.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear telephonically without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 6/30/20:

[Intentionally omitted]

Tentative Ruling for 5/12/20:

[Intentionally omitted]

Tentative Ruling for 3/31/20:

Appearances required, to address whether, prior to remand, this Court should order mandatory mediation. But, pursuant to Judge Bason's COVID19 Procedures, **telephonic appearances are REQUIRED until further notice.**

Please contact CourtCall at (888) 882-6878 to make arrangements for any telephonic appearance. There is no need to contact the Court for permission. Parties who are not represented by an attorney will be able to use CourtCall for free through 4/30/20. Attorneys will receive a 25% discount (for more information, see www.cacb.uscourts.gov, "Judges," "Bason, N.," "Telephonic Instructions").

This Court has reviewed the parties' joint status report (dkt. 11) and the other

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filed documents and records in this adversary proceeding.

(1) Current issues

(a) Motion for remand (adv. dkt. 7, "Remand Motion") and supporting declaration (adv. dkt. 8), Plaintiff's opposition (adv. dkt. 10), Movants' reply (adv. dkt. 12)

Defendants Dos Cabezas Properties, LLC, Criscione-Meyer Entitlement, LLC, and Michael Criscione (collectively, the "Movants") seek an order remanding this proceeding and for an award of attorneys fees and costs imposed against plaintiff Tarzana Crossing, a Merchant Faire, LLC ("Plaintiff").

For the reasons set forth below, the tentative ruling is to grant the request to remand this removed action, but perhaps defer the remand until after mediation, and deny the request for attorney fees.

(i) Jurisdiction

The parties dispute whether this Court has subject matter jurisdiction to hear this proceeding. The tentative ruling is that this Court has "related to" jurisdiction pursuant to 28 U.S.C. 157(c)(1), because the parties' dispute arises from an alleged breach of contract for the sale of the estate's principal asset.

(ii) Mandatory abstention

The tentative ruling is that mandatory abstention applies as follows. Mandatory abstention under 28 U.S.C. 1334(c)(2) requires seven elements: (1) a timely motion; (2) a purely state law question; (3) a non-core proceeding under 28 U.S.C. 157(c)(1); (4) a lack of independent federal jurisdiction absent the petition under Title 11; (5) that an action is commenced in a state court; (6) the state court action may be timely adjudicated; (7) a state forum of appropriate jurisdiction exists. [*In re Gen. Carriers Corp.*, 258 B.R. 181, 189 (9th Cir. BAP 2001) (internal quotation omitted).]

These elements are satisfied: (1) the motion was timely - the proceeding was removed on 1/22/20 and Movants filed the remand motion just 30 days later, on 2/21/20; (2) the complaint involves purely nonbankruptcy law questions (breach of fiduciary duty etc., adv. dkt. 7, p. 2:17-21) (Movants state that they amended their complaint on 8/30/19, but there is nothing in the record reflecting what was amended (*id.*, p. 2:21), so this Court bases its ruling on the record presented); (3) the proceeding is

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noncore - the authorities cited by the removing party (dkt.10, pp.14:24-15:14) are distinguishable because they all involved alleged violations of fiduciary duties within the bankruptcy case itself, not prepetition and nonbankruptcy alleged violations; (4) no independent federal jurisdiction has been asserted; (5) the action was commenced prepetition, on 12/14/18, in Los Angeles Superior Court; (6) there is no evidence that the proceeding cannot be timely adjudicated in the State Court; and (7) neither party has contested in this Court the State Court's jurisdiction over the proceeding.

(iii) Discretionary abstention

Alternatively, and in addition, the tentative ruling is that discretionary abstention is appropriate.

Discretionary abstention under 28 U.S.C. 1334(c)(1) requires consideration of the following twelve factors:

- (1) the effect of lack thereof on the efficient administration of the estate if a Court recommends abstention, (2) the extent to which state law issues predominate over bankruptcy issues, (3) the difficulty or unsettled nature of the applicable law, (4) the presence of a related proceeding commenced in state court or other nonbankruptcy court, (5) the jurisdictional basis, if any, other than 28 U.S.C. 1334, (6) the degree of relatedness or remoteness of the proceeding to the main bankruptcy case, (7) the substance rather than form of an asserted "core" proceeding, (8) the feasibility of severing state law claims from core bankruptcy matters to allow judgments to be entered in state court with enforcement left to the bankruptcy court, (9) the burden of the bankruptcy court's docket, (10) the likelihood that the commencement of the proceeding in bankruptcy court involves forum shopping by one of the parties, (11) the existence of a right to a jury trial, and (12) the presence in the proceeding of nondebtor parties.

In re Tucson Estates, Inc., 912 F.2d 1162, 1167 (9th Cir. 1990).

Several of the *Tucson* factors weigh in favor of abstention. First, the Complaint involves purely state-law issues. Second, this Court would not have jurisdiction over the Complaint but for the Debtor's bankruptcy petition, because the claims arise under state law and there is no diversity between the parties. Third, the Complaint involves several non-debtor parties who have asserted a right to a jury trial. Fourth, permitting the Complaint to proceed in state court will contribute to the efficient administration of the bankruptcy case because the State Court is the best tribunal to adjudicate the

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parties' state law claims. Fifth, although the Complaint is related to the main bankruptcy case because it involves claims relating to the primary asset of the estate, deferring to the State Court to adjudicate the parties' claims will not unduly interfere with this Bankruptcy Court's determination of other matters in the bankruptcy case.

(iv) Movants' request for attorneys' fees is denied

The tentative ruling is to deny Movant's request for attorneys' fees because this Court is not persuaded that Plaintiff lacked an objectively reasonable basis for seeking removal of this action because the dispute is related to the primary asset of Debtor's bankruptcy estate.

Proposed order: Movants are directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1) (B).

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(2) Venue/jurisdiction/authority.

The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this Bankruptcy Court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. See generally *Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to

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liquidate debt and enter final judgment). See generally *In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(3) Mediation. [Intentionally omitted]

(4) Deadlines: [Intentionally omitted]

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear telephonically without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

110 West Properties, LLC

Represented By
Gregory K Jones
Jeffrey Huron
Danielle N Rushing

Defendant(s):

110 West Properties, LLC

Represented By
Gregory K Jones
Jeffrey Huron

RU, LLC

Pro Se

Dos Cabezas Properties, LLC

Represented By
Thomas F Nowland
Robert P Goe
Charity J Manee

Criscione-Meyer Entitlement, LLC

Represented By
Thomas F Nowland

Michael Criscione

Represented By

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CONT... 110 West Properties, LLC

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Thomas F Nowland

First American Title Company

Pro Se

Plaintiff(s):

Tarzana Crossing, a Merchant Faire,

Represented By
Alan M Feld
Peter C. Bronson
Peter C Bronson

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2:20-11675 Korean Western Presbyterian Church of Los Angeles

Chapter 11

#6.00 Cont'd Status Conference re: Chapter 11 Case
fr. 2/28/20, 03/31/20, 4/21/20, 5/5/20, 6/30/20,
10/6/20, 2/9/21

Docket 1

Tentative Ruling:

Tentative Ruling for 5/11/21:

Continue as set forth below based on this Court's review of the trustee's status report (dkt. 204). Appearances are not required on 5/11/21.

(1) Current issues

This Court has no issues to raise *sua sponte*.

(2) Deadlines/dates. This case was filed on 2/14/20.

(a) Bar date: 6/30/20 (dkt. 160; timely served, dkt. 161, 171).

(b) Procedures order: dkt.5. (no proof of service)

(c) Plan/Disclosure Statement*: TBD. See the **revised** "Procedures of Judge Bason" (available at www.cacb.uscourts.gov) (search for "Chapter 11: Plan").

(d) Continued status conference: 12/14/21 at 1:00 p.m. *Brief* status report due 11/30/21.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

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CONT... Korean Western Presbyterian Church of Los Angeles

Chapter 11

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Korean Western Presbyterian Church

Represented By
Victor A Sahn
Steven Werth
Won Lee

Trustee(s):

Jason M Rund (TR)

Represented By
John N Tedford IV
Brad Krasnoff
Aaron E de Leest

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2:21-10956 LAX In-Flite Services, LLC

Chapter 11

**#7.00 Hrg re: Motion of Debtor for Approval of Sale of
Substantially All of its Assets**

Docket 59

***** VACATED *** REASON: This matter is scheduled to be heard on
05/19/21 at 2:30 p.m. per parties' stipulation (dkt. 92)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

LAX In-Flite Services, LLC

Represented By
Jeremy H Rothstein

Movant(s):

LAX In-Flite Services, LLC

Represented By
Jeremy H Rothstein
Jeremy H Rothstein

Trustee(s):

John-Patrick McGinnis Fritz (TR)

Pro Se

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2:21-10956 LAX In-Flite Services, LLC

Chapter 11

#8.00 Cont'd Status Conference re: Chapter 11 Case
fr. 02/25/21, 03/02/21, 4/6/21, 4/27/21

Docket 1

Tentative Ruling:

Tentative Ruling for 5/11/21:

Continue as set forth below. Appearances are not required on 5/11/21.

(1) Current issues

This Court has nothing to raise *sua sponte* at this time.

(2) Dates/procedures. This case was filed on 2/5/21.

(a) Bar date: 4/16/21 per General Order 20-01 (70 days after petition date in Subchapter V cases) (DO NOT SERVE any notice: one has already been sent, see dkt.16).

(b) Procedures order: dkt.3 (timely served, dkt.9)

(c) Plan/Disclosure Statement: Dkt. 89

(d) Continued status conference: 5/19/21 at 2:30 p.m., concurrent with other matters. No status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

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CONT... LAX In-Flite Services, LLC

Chapter 11

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

LAX In-Flite Services, LLC

Represented By
Jeremy H Rothstein

Trustee(s):

John-Patrick McGinnis Fritz (TR)

Pro Se

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2:21-11720 Jose Angel Rosales

Chapter 11

#9.00 Cont'd Status Conference re: Chapter 11 Case
fr. 03/23/21, 3/31/21, 4/27/21

Docket 1

Tentative Ruling:

Tentative Ruling for 5/11/21:

Continue as set forth below. Appearances are not required on 5/11/21.

(1) Current issues

(a) Employment Applications (dkt. 43, 45)

On 4/27/21 Debtor filed declarations that no party requested a hearing on his employment applications, but as of the preparation of this tentative ruling Debtor does not appear to have lodged proposed orders. The tentative ruling is to direct Debtor to lodge proposed orders by **5/12/21**.

(2) Dates/procedures. This case was filed on 3/3/21. If this case is not dismissed, the tentative ruling is to set the following dates/deadlines:

(a) Bar date: 6/16/21 (dkt. 35; timely served, dkt. 44)

(b) Procedures order: dkt.14 (timely served, dkt. 21, amended by dkt. 22)

(c) Plan/Disclosure Statement: file by 9/3/21 (DO NOT SERVE - except on the U.S. Trustee). See the **revised** "Procedures of Judge Bason" (available at www.cacb.uscourts.gov) (search for "Chapter 11: Plan").

(d) Continued status conference: 7/20/21 at 1:00 p.m. *Brief* status report due 7/6/21.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter

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CONT... Jose Angel Rosales

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by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Jose Angel Rosales

Represented By
Nancy Korompis

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2:21-11676 Cynthia C. Rodriguez

Chapter 11

#10.00 Cont'd hrg re: Motion in Individual Ch 11 Case for Order Pursuant to 11 U.S.C. Sec. 363 Setting Budget for Interim Use of Estate Property as Defined in 11 U.S.C. Sec. 1115 fr. 4/27/21

Docket 36

Tentative Ruling:

Tentative Ruling for 5/11/21:

Please see the tentative ruling for the status conference (Calendar No. 11, 5/11/21 at 1:00 p.m.).

Tentative Ruling for 4/27/21:

Please see the tentative ruling for the status conference (Calendar No. 10, 4/27/21 at 1:00 p.m.).

Party Information

Debtor(s):

Cynthia C. Rodriguez

Represented By
Mufthiha Sabaratnam

Movant(s):

Cynthia C. Rodriguez

Represented By
Mufthiha Sabaratnam

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2:21-11676 Cynthia C. Rodriguez

Chapter 11

#11.00 Cont'd Status Conference re: Chapter 11 Case
fr. 3/23/21, 4/27/21

Docket 1

Tentative Ruling:

Tentative Ruling for 5/11/21:

Appearances required.

(1) Current issues

(a) Debtor's amended budget motion (dkt. 59), Order Modifying Hearing Date (dkt. 61), Debtor's proof of service (dkt. 64)

The tentative ruling is to grant the amended budget motion, subject to any opposition at the hearing.

Proposed order: Debtor is directed to lodge a proposed order via LOU within 7 days after the hearing. See LBR 9021-1(b)(1)(B).

(b) Electronic case filing notice ("ECF Notice")

Debtor's Counsel states that she did not receive notice of this Court's Order Modifying Hearing Date (dkt. 61) until 5/2/21 (3 days after the order was entered and 2 days after the deadline to serve the order on creditors). Dkt. 64, p.1. But the BNC Certificate of Notice reflects service on Ms. Sabaratnam **on 4/29/21** via ECF Notice to her registered email address: pke115mfs@yahoo.com. Dkt. 63, p.1.

This Court also notes that Debtor's Counsel has had similar issues receiving notice of pleadings and orders filed on the docket in the past (see, e.g., Declaration of Counsel Mufthiha Sabaratnam, dkt. 48, p.1, "I was aware that the court would submit an order regarding the Bar Date and I was checking the emails from the Court email to make sure that I received it. When I did not receive the court order ... I checked the docket today and found that the court order was filed as docket #39").

Debtor's Counsel is directed to immediately take all necessary steps to address this issue to ensure timely receipt of ECF Notices in future. For example, she should review her e-mail settings to confirm that ECF Notices

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CONT...

Cynthia C. Rodriguez

Chapter 11

are not being redirected to a spam folder, register alternate e-mail address(es), review the docket daily to check for new filings, etc.

Debtor's counsel is cautioned that the continued failure to timely file and/or serve pleadings by this Court's deadlines in future may result in the imposition of sanctions or other remedies.

(c) Plan/Disclosure Statement filing deadline(s)

Debtor's initial case status report (dkt. 32) did not address what deadline(s) this Court should set for her to file a plan and disclosure statement. Debtor should be prepared to address whether there is any reason this Court should not set a filing deadline(s) at this time.

(2) Dates/procedures. This case was filed on 3/2/21.

(a) Bar date: 6/16/21 (dkt. 39) (not timely served, dkt. 46)

(b) Procedures order: dkt.18 (timely served, dkt.25)

(c) Plan/Disclosure Statement: See above.

(d) Continued status conference: 6/29/21 at 1:00 p.m. *Brief* status report due 6/16/21.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

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CONT... Cynthia C. Rodriguez

Chapter 11

Debtor(s):

Cynthia C. Rodriguez

Represented By
Mufthiha Sabaratnam

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2:21-12517 Law Offices of Brian D. Witzer

Chapter 11

#12.00 Hrg re: Debtor's Notice of Setting / Increasing Insider Compensation

Docket 57

Tentative Ruling:

Please see the tentative ruling for the Status Conference (calendar no. 15, 5/11/21 at 1:00 p.m.).

Party Information

Debtor(s):

Law Offices of Brian D. Witzer

Represented By
Michael Jay Berger

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2:21-12517 Law Offices of Brian D. Witzer

Chapter 11

#13.00 Cont'd status conference re: Motion in Individual Chapter 11
Case for Order Approving a Budget for the Use of the Debtor's
Cash and Post-Petition Income
fr. 3/31/21, 4/27/21

Docket 7

Tentative Ruling:

Tentative Ruling for 5/11/21:

Please see the tentative ruling for the Status Conference (calendar no. 15,
5/11/21 at 1:00 p.m.).

Tentative Ruling for 4/27/21:

Please see the tentative ruling for the Status Conference (calendar no. 20,
4/27/21 at 1:00 p.m.).

Tentative Ruling for 3/31/21:

Please see the tentative ruling for the Status Conference (calendar no. 1,
3/31/21 at 2:00 p.m.).

Party Information

Debtor(s):

Law Offices of Brian D. Witzer

Represented By
Michael Jay Berger

Movant(s):

Law Offices of Brian D. Witzer

Represented By
Michael Jay Berger

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 11, 2021

Hearing Room 1545

1:00 PM

2:21-12517 Law Offices of Brian D. Witzer

Chapter 11

#14.00 Cont'd status conference re: Debtor Law Offices of Brian D. Witzer, Inc.'s Emergency Motion for Order Authorizing Interim Use of Cash Collateral fr. 3/31/21, 4/27/21

Docket 6

Tentative Ruling:

Tentative Ruling for 5/11/21:

Please see the tentative ruling for the Status Conference (calendar no. 15, 5/11/21 at 1:00 p.m.).

Tentative Ruling for 4/27/21:

Please see the tentative ruling for the Status Conference (calendar no. 20, 4/27/21 at 1:00 p.m.).

Tentative Ruling for 3/31/21:

Please see the tentative ruling for the Status Conference (calendar no. 1, 3/31/21 at 2:00 p.m.).

Party Information

Debtor(s):

Law Offices of Brian D. Witzer

Represented By
Michael Jay Berger

Movant(s):

Law Offices of Brian D. Witzer

Represented By
Michael Jay Berger

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 11, 2021

Hearing Room 1545

1:00 PM

2:21-12517 Law Offices of Brian D. Witzer

Chapter 11

#15.00 Cont'd Status Conference re: Chapter 11 Case
fr. 3/31/21, 4/27/21

Docket 1

Tentative Ruling:

Tentative Ruling for 5/11/21:

Appearances required.

(1) Current issues

(a) Debtor's Notice of Setting/Increasing Insider Compensation (dkt. 57), Objection of Pravati Credit Fund III LP ("Pravati") (dkt. 81)

There is no tentative ruling, but the parties should be prepared to address the issues raised in Pravati's objection.

(b) Debtor's Emergency Motion for Order Authorizing Interim Use of Cash Collateral (dkt. 6), Debtor's Supplemental Declaration (dkt. 31), Opposition by Pravati Credit Fund III LP ("Pravati") (dkt. 46), Debtor's Reply (dkt. 58), Debtor's Motion for Order Approving Budget for Use of the Debtor's Cash and Postpetition Income (dkt. 7)

On 4/27/21, this Court continued the hearing on these matters to allow Pravati to engage in a limited discovery process to (i) verify Debtor's past expenditures and (ii) determine whether there is evidence for or against Debtor's projected future expenditures. There is no tentative ruling, but the parties should be prepared to address what progress, if any, they have made.

(2) Dates/procedures. This case was filed on 3/29/21.

(a) Bar date: 7/6/21.

(b) Procedures order: dkt. 4 (service cured, see dkt. 8, 82)

(c) Plan/Disclosure Statement: TBD

(d) Continued status conference: 6/15/21 at 1:00 p.m., no written status report required.

*Warning: special procedures apply (see order setting initial status conference).

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CONT... Law Offices of Brian D. Witzer

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If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 4/27/21:

Appearances required by counsel for Debtor and by Debtor's principal.

(1) Current issues

(a) Debtor's Emergency Motion for Order Authorizing Interim Use of Cash Collateral (dkt. 6), Debtor's Supplemental Declaration (dkt. 31), Pravati Credit Fund III LP's Opposition (dkt. 46), Debtor's Reply (dkt. 58), Debtor's Motion for Order Approving Budget for Use of the Debtor's Cash and Postpetition Income (dkt. 7)

The tentative ruling is to grant the motion on a further interim basis. While this Court agrees with Pravati that the evidence to support Debtor's actual and projected budgets falls short of what should have been provided, and that Debtor's proposed \$15,000 monthly payments do not appear even to cover the statutory interest accruing on its claim, nevertheless Pravati's position is weakened in two respects.

First, Debtor has provided strong evidence that Pravati's lien is avoidable under 11 U.S.C. § 547 and has indicated that it will initiate an adversary proceeding to avoid that lien, changing Pravati's asserted secured claim to an unsecured claim. Dkt. 58, pp. 2:17–20, 3:23–26. Second, this Court is also concerned that denying the motion would run the risk of undermining Debtor's ability to generate revenues for the benefit of all creditors, thereby reducing the potential distribution to creditors, including Pravati, under any plan. Both of these factors favor granting the motion on a further interim basis, with a continued hearing concurrent with the continued

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status conference (see below), while also permitting Pravati to engage in reasonable, fairly limited discovery to (i) verify past expenditures and (ii) support Debtor's projected future expenditures. The parties are reminded to review the "Posted Procedures of Judge Bason" (available at www.cacb.uscourts.gov) regarding discovery disputes (and any other relevant matters).

(b) Proof of Service of the Court's Order Setting (A) Principal Status Conference and (B) Procedures (dks. 4, 15).

On 3/30/21, this Court issued its Order Setting (A) Principal Status Conference and (B) Procedures (the "Procedures Order"). The Procedures Order directed Debtor to serve all parties in interest via U.S. Mail and to file a proof of service with the Court.

On 3/31/21, Debtor's counsel submitted a declaration of one of his employees (the "Employee Declaration") stating that he caused the Procedures Order to be served on a list of parties. A proof of service was attached as Exhibit A to the Employee Declaration, but the proof of service does not list any parties served via U.S. Mail. The tentative ruling is to direct Debtor, no later than **4/29/21**, either (x) to serve a corrected Employee Declaration showing the missing names or (y) to serve the Procedures Order on all parties who have not been served and file a supplemental proof of service.

(2) Dates/procedures. This case was filed on 3/29/21.

(a) Bar date: 7/6/21 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Procedures order: dkt. 4 (not timely served, dkt. 8, see above)

(c) Plan/Disclosure Statement: TBD

(d) Continued status conference: 5/11/21 at 1:00 p.m., *brief* status report due 5/18/21.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

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are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Law Offices of Brian D. Witzer

Represented By
Michael Jay Berger

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2:20-11333 Edmund Lincoln Anderson

Chapter 11

#16.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 4/27/21

US BANK TRUST NA
vs
DEBTOR

Docket 339

Tentative Ruling:

Tentative Ruling for 5/11/21:

Please see the tentative ruling for the status conference (Calendar No. 18, 5/11/21 at 1:00 p.m.).

Tentative Ruling for 4/27/21:

Please see the tentative ruling for the status conference (Calendar No. 6, 4/27/21 at 2:00 p.m.).

Party Information

Debtor(s):

Edmund Lincoln Anderson

Represented By
Stella A Havkin

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2:20-11333 Edmund Lincoln Anderson

Chapter 11

#17.00 Cont'd hrg re: Third Default on Stipulation for use of
Cash Collateral and Adequate Protection
(Internal Revenue Service)
fr. 3/23/21, 4/27/21

Docket 315

Tentative Ruling:

Tentative Ruling for 5/11/21:

Please see the tentative ruling for the status conference (Calendar No. 18,
5/11/21 at 1:00 p.m.).

Tentative Ruling for 4/27/21:

Please see the tentative ruling for the status conference (Calendar No. 6,
4/27/21 at 2:00 p.m.).

Tentative Ruling for 3/23/21:

Please see the tentative ruling for the status conference (Calendar No. 8,
3/23/21 at 2:00 p.m.).

Party Information

Debtor(s):

Edmund Lincoln Anderson

Represented By
Stella A Havkin

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2:20-11333 Edmund Lincoln Anderson

Chapter 11

#18.00 Cont'd Status Conference re: Chapter 11 Case
fr. 3/3/20, 3/10/20, 4/7/20, 4/21/20, 6/2/20, 7/14/20,
7/28/20, 8/18/20, 9/1/20, 10/6/20, 10/27/20, 12/1/20,
1/5/21, 2/9/21, 03/02/21, 3/23/21, 4/27/21

Docket 1

Tentative Ruling:

Tentative Ruling for 5/11/21:

Appearances required by counsel for the debtor.

(1) Current issues

(a) Cash collateral: declaration re 3d default (the "Default Decl.," dkt.315), Debtor's response (dkt.317), order setting hearing (dkt.318)

At the 4/27/21 hearing, this Court held that Debtor is required to prepare a budget, progress reports, and permit site inspections upon request. This Court also directed the parties to meet and confer to discuss reporting requirements for these disclosures and continued the hearing on this matter to resolve any disputes that may have arisen during the course of the meet and confer.

This Court notes that Debtor's latest Monthly Operating Reports (dkt. 348, for March 2021) are finally labeled to show which account relates to which property. But that appears to be "shutting the barn door after the horses have left," because the properties no longer generate income and there are almost no funds left.

In addition, this Court notes that (i) at PDF p.12 of the MOR it appears to report that home insurance expired months ago, car insurance is about to expire, and no payments have been made on either insurance for months, and (ii) PDF p.13 appears to be a random, misplaced page. Debtor is directed to address these issues at the hearing, as well as progress on selling the remaining properties of this bankruptcy estate.

There is no tentative ruling, but the parties should be prepared to discuss whether they have reached a consensus and/or whether there are any disputed issues for this Court to address.

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(b) U.S. Bank Trust NA as Trustee of the Tiki Series III Trust's Declaration of Default Under Adequate Protection Order; Request for Entry of Order Granting Relief from Stay (dkt. 339), Debtor's Opposition (dkt. 342), order setting hearing (dkt. 343)

Same as above.

(2) Deadlines/dates. This case was filed on 2/6/20.

(a) Bar date: 5/1/20 (dkt. 50; timely served, dkt. 55).

(b) Procedures order: dkt. 7 (timely served, dkt.8)

(c) Plan/Disclosure Statement (dkt. 251, 250)*: TBD.

(d) Continued status conference: 6/1/21 at 2:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Edmund Lincoln Anderson

Represented By
Stella A Havkin

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2:16-21559 David MacMillan

Chapter 7

#1.00 Cont'd hrg re: Trustee's Objection to Amended Claim of Wyndham
Vacation Resorts, Inc.
fr 3/23/21, 4/6/21, 4/27/21

Docket 522

Tentative Ruling:

Tentative Ruling for 5/11/21:

Appearances required.

(1) Current issues

(a) Trustee's claim objections (MacCase, dkt. 522; AttitudeCase dkt. 191)

There is no tentative ruling. The parties should be prepared to update this Court on the status of any settlement negotiations.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 4/6/21:

Appearances required.

(1) Current issues

The tentative ruling is (a) to sustain the Trustee's objections to Wyndham's Claims, without leave for Wyndham to renew its claims for liquidated

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damages, but (b) to refrain from issuing any order memorializing that ruling, so that this Court can direct the parties to mandatory mediation in an attempt to avoid the expense and delay of any appeals or other proceedings. This Court will address at the continued status conference (see below) when to use and enter any order(s) implementing this tentative ruling.

(a) Terminology

This Court's terminology is as previously memorialized (MacCase, dkt.485).

(b) Key documents reviewed

Wyndham's Proof of Claim 3-4 filed in the MacCase (the "Wyndham-Mac Claim") and Wyndham's Proof of Claim 1-2 filed in the AttitudeCase (the "Wyndham-Attitude Claim," and together, the "Claims"); 2015 Settlement Agreement (MacCase dkt. 516, Ex. H, at PDF pp. 151 *et seq.*); 2020 Settlement Agreement (MacCase dkt. 512, Ex. A); Motion to approve settlement (MacCase dkt. 512); Trustee's limited objection to settlement (MacCase dkt. 515); Reply re settlement (MacCase dkt. 516; AttitudeCase dkt. 191); Order approving settlement subject to Trustee's right to object to claim (MacCase dkt. 518); Trustee's Claim objection (MacCase dkt. 522; AttitudeCase dkt. 191); Wyndham's Response (MacCase dkt. 528; AttitudeCase, dkt. 196), MacMillan declaration in support of Wyndham's Response (MacCase dkt. 530; AttitudeCase, dkt. 197), Stipulations and orders extending filing deadlines (MacCase, dkt. 532, 533, 535, 536; AttitudeCase, dkt. 198, 199, 201, 202), Trustee's reply (MacCase, dkt. 538; AttitudeCase, dkt. 204), Trustee's declaration in support of reply (MacCase dkt. 539; AttitudeCase, dkt. 205), Trustee's request for judicial notice (MacCase dkt. 540; AttitudeCase, dkt. 206)

(c) Legal standards for objections to claim.

Under the statute, a proof of claim is "deemed allowed" unless an objection is made, and if such an objection is made then the court "shall" allow such claim "except to the extent that" it is unenforceable under the agreement itself or applicable law (or other, inapplicable grounds). 11 U.S.C. 502(a) & (b). In other words, the burden is on the objecting party to provide a cognizable ground to disallow the claim.

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(i) There must be some factual or legal basis to disallow the claim, not just an alleged non-compliance with Rule 3001

Pursuant to Rule 3001(f) a proof of claim must be "executed and filed in accordance with these rules" in order to automatically "constitute *prima facie* evidence of the validity and amount of the claim." But a rule cannot supersede a statute, and an objecting party must do more than simply point to a lack of compliance with Rule 3001 in order to obtain an order disallowing a claim: the objecting party must establish an actual basis to contest the liability or amount of the claim. See *In re Campbell*, 336 B.R. 430 (9th Cir. BAP 2005); *In re Heath*, 331 B.R. 424 (9th Cir. BAP 2005). See also *Travelers Cas. & Sur. Co. of Am. v. Pac. Gas & Elec. Co.*, 549 U.S. 443, 449, 127 S. Ct. 1199, 167 L. Ed. 2d 178 (2007) ("the court 'shall allow' the claim 'except to the extent that' the claim implicates any of the nine exceptions enumerated in [section] 502(b)").

(ii) Non-compliance with Rule 3001 only means that the "usual burdens of proof" apply

If a proof of claim does not comply with Rule 3001(f) then it does not automatically constitute *prima facie* evidence of the "validity and amount" of the claim and "the usual burdens of proof associated with claims litigation apply." *Campbell*, 336 B.R. 430, 436 (emphasis added). But the proof of claim can still be *prima facie* evidence of the claim's validity and amount *if* the evidence attached to the proof of claim is "sufficient to support the claim." In that situation the objecting party "must produce evidence tending to defeat the claim that is of probative force equal to that of the creditors' proof of claim." *In re Consolidated Pioneer Mortgage*, 178 B.R. 222, 226 (9th Cir. BAP 1995) (citations and internal quotation marks omitted).

(b) The Claims are not entitled to *prima facie* validity as against the Trustee under Rule 3001(f)

On 12/16/20, Wyndham filed the amended Claims (which appear in all respects to be identical) asserting general unsecured claims against the MacMillan and Attitude estates in the amount of \$25,000,000. Although it is not clear from a review of the documents filed in support of the Claims, it appears the Claims are comprised of (w) damages arising out of the Debtors' alleged failures to transfer timeshares to Wyndham and pay an agreed-upon \$375 per unit transferred as well as unpaid maintenance fees, (x) attorneys'

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fees, (y) interest, and (z) liquidated damages arising from alleged breaches of a 2015 Settlement Agreement (the "2015 Settlement Agreement") executed in connection with pre-petition litigation in the Middle District of Tennessee captioned *Wyndham Vacation Resorts, Inc. et al. v. Property Relief, LLC, et al.*, Case No. 3:13-cv-434 (the "WVR Lawsuit") (MacCase dkt. 516, Ex. H, at PDF pp. 151 *et seq.*).

In support of the Claims, Wyndham relies on a four-page summary of the history of its bankruptcy litigation with MacMillan and Cynthia Martin which concluded with the execution of a new settlement agreement (the "2020 Settlement Agreement") (MacCase dkt. 512-1, Ex. A), as well as this Court's order approving that agreement and the related nondischargeability judgment (none of which is attached, but all of which have been reviewed by this Court). But, as the Trustee highlights, the Claims are not supported by the 2015 Settlement Agreement or any kind of summary explaining the various components of the Claims or how Wyndham arrived at the \$25,000,000 figure (MacCase dkt. 522, pp.1:28-2:4 & 17:23-19:4 & AttitudeCase dkt. 191, p.2:1-5 & 18:7-20:25).

As against Debtors themselves, Wyndham's Claims might be entitled to *prima facie* validity because Debtors were *parties* to the underlying 2020 Settlement Agreement. But as against the Trustee, there is insufficient information to determine the components of the claim including anything about how the settling parties arrived at \$10,000 for liquidated damages.

Therefore, the tentative ruling is that the Claims lack sufficient information to give them *prima facie* validity under Rule 3001(c)(1) & (f) (Fed. R. Bankr. P.). See *e.g.*, *In re Heath*, 331 B.R. at 433 (claim can be based on summary rather than complete documentation but, among other things, "if the claim includes charges such as interest, late fees and attorney's fees, the summary should include a statement giving a breakdown of those elements").

Alternatively, even if the Claims had *prima facie* validity under Rule 3001(f) (which they do not), that would not change the outcome. The Trustee has rebutted any such initial showing by Wyndham, thereby shifting the burden to Wyndham. Wyndham has not carried that burden, for the reasons set forth below.

(c) Wyndham has not carried its initial burden of proof

The Trustee objects to the Claims on the grounds that the lion's share of the \$25,000,000 figure is premised on an unenforceable liquidated

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damages provision in the 2015 Settlement Agreement under applicable law (*i.e.*, that the Claims must be disallowed under 11 U.S.C. 502(b)(1)) (MacCase dkt. 522, pp.14:14-17:21 & AttitudeCase dkt. 191, pp.15:1-18:5).

(i) Tennessee law applies

Neither party has briefed whether this Court should apply Tennessee or California law. But the tentative ruling is that Tennessee law applies pursuant to paragraph 13 of the 2015 Settlement Agreement, which states in relevant part: "[s]hould any question arise as to the construction or interpretation of this Agreement, this Agreement shall be construed and interpreted according to the laws of the State of Tennessee ..." (see 2:17-ap-01229-NB, dkt. 80, p.14, para. "(13)") (emphasis added).

Under Tennessee law, "the term 'liquidated damages' 'refers to an amount determined by the parties to be just compensation for damages,' should a contract breach occur." *Guesthouse Int'l Franchise Sys., Inc., v. British Am. Props. MacArthur Inn, LLC*, 2009 U.S. Dist. LEXIS 8570, at *30-31, 2009 WL 278214, at *9-10 (M.D. Tenn. 2009) (quoting *Vanderbilt Univ. v. DiNardo*, 174 F.3d 751, 755 (6th Cir. 1999)). "The fundamental purpose of a liquidated damages provision is to provide a means of compensation in the event of a breach where damages would be indeterminable or otherwise difficult to prove." *Id.* (citing *Guiliano v. Cleo, Inc.*, 995 S.W.2d 88, 98 (Tenn. 1999)). "Tennessee courts 'have long recognized the freedom of parties to agree upon terms that may not appear desirable to outsiders and the duty of the courts to refrain from interfering with the parties' agreement unless to enforce it would violate established public policy.'" *Id.* (quoting *Anesthesia Med. Group v. Chandler*, 2007 Tenn. App. LEXIS 73, 2007 WL 412323, at *9 (Tenn. Ct. App. Feb. 6, 2007)).

Tennessee courts "will uphold a liquidated damages provision if 'the liquidated damages specified were a **reasonable prediction** of what a breach would cost the injured party in light of circumstances at the time the contract was formed.'" *Id.* (quoting *U.S. v. Ponnappula*, 246 F.3d 576, 584 (6th Cir. 2001)) (emphasis added). "Therefore, 'the amount of actual damages at the time of breach is of little or no relevance to whether the clause is an impermissible penalty.'" *Id.* "Courts will not, however, enforce a liquidated damages provision 'if the stipulated amount constitutes a penalty.'" *Id.* (quoting *Vanderbilt Univ.*, 174 F.3d at 755). "A penalty is 'designed to coerce performance by punishing default.'" *Id.* "Any doubt as to the character of a

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contract provision 'will be resolved in favor of finding it a penalty.'" *Id.*

(ii) Wyndham has the burden to establish that the liquidated sum was a reasonable prediction of damages

The parties also have not briefed which of them bears the burden of establishing the enforceability of the liquidated damages provision and, based on this Court's own research, it appears Tennessee Courts are split on the issue. This Court has found at least three Tennessee Court of Appeals decisions that placed the burden on the party seeking to enforce a liquidated damages clause to establish that the liquidated sum was a reasonable prediction of damages. See *Patterson v. Anderson Motor Co.*, 45 Tenn. App. 35, 55-56 (1958) ("it is at least conceivable that had defendants elected to put on proof, they might have established as a fact that \$2,000 was a reasonable sum to be allowed as liquidated damages"), *Eatherly Construction Co. v. HTI Memorial Hospital*, 2005 Tenn. App. LEXIS 575, at *28, 2005 WL 2217078, at *9 (Tenn. Ct. App. Sept. 12, 2005) (citing *Guiliano v. Cleo, Inc.*, 995 S.W.2d 88, 100-101 (Tenn. 1999)) ("In the trial court, [the party seeking to enforce the liquidated damages provision] had the burden to establish that the liquidated sum was a reasonable estimate of potential damages"); *Bachour v. Mason*, 2013 Tenn. App. LEXIS 366, at *12-13, 2013 WL 2395027, at *5 (Tenn. Ct. App. May 30, 2013) ("It thus appears to us that the \$75,000 was not based on any estimate of potential damages, but was just an arbitrary figure that Buyer plucked from thin air. There is no evidence to support his contention that the figure bears any relation to the potential damages he would likely have suffered").

And other courts have agreed that "any doubt as to the character of the [liquidated damages] provision will be resolved in favor of finding it a penalty." *DiNardo, supra* (citing *Beasley v. Horrell*, 864 S.W.2d 45, 48 (Tenn. Ct. App. 1993), *overruled on other grounds by Guiliano, supra*); see also *Goggin Truck Line Co. v. Brake Pro, Inc.* 2000 Tenn. App. LEXIS 563, at *10, 2000 WL 1183058, at *3 (Tenn. Ct. App. Aug. 22, 2000) (same).

But some courts have held that a challenge to the enforceability of a liquidated damages provision is an affirmative defense which places the burden on the party seeking to avoid the clause to prove that it is a penalty. See e.g. *Shelbyville Hosp. Corp. v. Mosley*, 2017 U.S. Dist. LEXIS 191466, at *44, 2017 WL 5586729, at *14 (E.D. Tenn. Nov. 20, 2017) (citing *Anesthesia Med. Grp., P.C. v. Buras*, 2006 Tenn. App. LEXIS 618, at *8, 2006 WL

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2737829, at *3 (Tenn. Ct. App. Sept. 25, 2006)) (issue of enforceability of liquidated damages provision was held to be an affirmative defense).

In the absence of clear authority on the issue, the tentative ruling is that the better reasoned decisions put the burden on the party seeking to enforce a liquidated damages provision because that party is in the best position to establish that its liquidated damages provision was intended to be a reasonable prediction of damages and not to serve as a penalty.

(A) Wyndham has not established that the liquidated sum was a reasonable prediction of damages

In its opposition papers Wyndham argues that its Claims are well supported and that its evidence clearly establishes the enforceability of the liquidated damages provision. But, as discussed below, the tentative ruling is that Wyndham has not presented any evidence establishing that the \$10,000 liquidated damages figure was a reasonable prediction of damages. In addition, Wyndham has not sufficiently established the basis for any multiplier that would transform \$10,000 per breach of the 2015 Settlement Agreement into \$25 million of damages.

As noted above, the 2015 Settlement Agreement is not attached in support of the Claims and nothing in the 2015 Settlement Agreement explains how the parties arrived at the \$10,000 liquidated damages figure. The best evidence Wyndham offers to support its contention that \$10,000 was a reasonable measure of its compensatory damages is that the parties agreed to that amount.

Wyndham highlights that paragraphs 4(c), 4(d), 4(e) and 4(f) of the 2015 Settlement Agreement provide for \$10,000 in liquidated damages for each separate breach and violation and that the agreement specifically states: "[t]he parties agree that the liquidated damages provision is necessary and appropriate due to the difficulty in quantifying the degree of losses, damages or harm posed by a violation of this provision with any mathematical certainty." MacCase dkt. 528, pp.20:25-26:9 & AttitudeCase dkt. 196, pp.20:25-26:9. But the tentative ruling is that this evidence, on its own, is not enough to satisfy Wyndham's burden. See e.g. *Eatherly Construction Co. v. HTI Memorial Hospital*, 2005 Tenn. App. LEXIS 575, at *27-28, 2005 WL 2217078, at *9 (Tenn. Ct. App. Sept. 12, 2005) ("While the fact the parties 'agreed' to the amount is relevant, and it is a factor to be considered in order to determine whether the amount was a reasonable estimate at the time the

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Tuesday, May 11, 2021

Hearing Room 1545

2:00 PM

CONT...

David MacMillan

Chapter 7

parties entered into the contract, that evidence – the parties' agreement – standing alone does not preponderate against the trial court's specific finding to the contrary").

For the same reasons the tentative ruling is also that Wyndham's 2020 Settlement Agreement with MacMillan and Martin is insufficient. In addition and alternatively, the tentative ruling is that such evidence carries little to no evidentiary weight for the reasons articulated by the Trustee in the claim objections (MacCase dkt. 522, pp.5:26-8:22 & AttitudeCase, dkt. 191, pp.6:5-8:26).

Wyndham also offers the declarations of its vice president, Michael Lazinsk, and David MacMillan in support of its opposition papers. But, as the Trustee highlights, Mr. Lazinski has not established that he has personal knowledge to testify about the subject matter in his declaration (MacCase, dkt. 538, p.9:5-27) and neither declaration offers anything more than legal conclusions regarding the reasonableness of the \$10,000 liquidated damages figure. MacCase, dkt. 528 at PDF p.91, para. "(6)", dkt. 530, p.3, para. "(4)" & AttitudeCase dkt. 196 at PDF p.91, para. "(6)" & dkt. 197, p.3, para. "(4)". Neither of the parties to the settlement testifies to any facts that show how the parties arrived at the \$10,000 figure or how that figure was a reasonable prediction of damages.

There is no testimony from Mr. Lazinsk that, for example, relying on past experience Wyndham calculated that each breach of the 2015 Settlement Agreement would result in an average of X months of non-payment to Wyndham of \$Y in time share fees per month when one of its unit owners utilized MacMillan's services to transfer their timeshare interests to a so-called "Viking ship" entity, plus \$Z of attorney fees or other damages per breach, all adding up to a "reasonable prediction" of \$10,000 per breach of the 2015 Settlement Agreement. On its face, \$10,000 of damages from every single time Debtors or their affiliates "solicit, contact or communicate with any Wyndham owners" regarding possible transfer of their timeshare interest appears to be an unbelievably high dollar amount. See 2015 Settlement Agreement, ¶ 4(c) (MacCase dkt. 516, Ex. H, at PDF pp. 151 *et seq.*).

This Court notes that Wyndham attempts to justify its \$25,000,000 claim by highlighting that MacMillan previously testified that he successfully orchestrated the transfer of over 100,000 timeshare interests and generated fees estimated at more than \$300,000,000. MacCase, dkt. 528, p.4, Fn.6, AttitudeCase, dkt. 196, p.4, Fn.6. But Wyndham's reliance on these figures is

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misplaced. Wyndham is improperly attempting to conflate the potential damages MacMillan's actions might have inflicted on consumers with Wyndham's own damages. Standing alone, these figures are meaningless because Wyndham does not include evidence tying those figures to its own damages.

Wyndham does not offer evidence establishing that, for example, but for MacMillan's interference, unit owners would have paid all of that money to Wyndham. Nor does Wyndham account for the fact that many of the alleged 100,000 timeshare interests about which MacMillan bragged were with timeshare businesses other than Wyndham.

Finally, Wyndham argues that a District Court's findings issued in connection with a default judgment Wyndham obtained against TimeShare Relief, Inc. in a different action (Cal. Dist. Ct. case no. 2:18-cv-09036-CJC-AFM) are preclusive on the Trustee's ability to challenge the enforceability of the liquidated damages provision. But Wyndham does not cite to any authority for that proposition. Among other things, Wyndham presumably would have to establish privity between the defendant in that action (TimeShare Relief) and the Trustee or the individual creditors of the MacMillan and Attitude estates, and this Court is not aware of any basis to find such privity, particularly when the Trustee apparently was not served with critical papers and was not on notice of any intent by Wyndham to use the default judgment in that case as a basis for preventing any challenge to its claim in this bankruptcy case.

For all of these reasons, the tentative ruling is that Wyndham has not carried its burden.

(B) Even if the Trustee bears the initial burden of proving that the liquidated damages provision is an unenforceable penalty, he has carried that burden

Alternatively, even if the Trustee bears the initial burden to prove that the liquidated damages provision is an unenforceable penalty, the tentative ruling is that he has satisfied that burden. This Court notes the difficulty for any party in having to prove a negative and in doing so parties often rely exclusively on circumstantial arguments and evidence to carry their burden. In this case, the Trustee highlights that Wyndham's own proofs of claim have grown exponentially over time and there is nothing in the 2015 Settlement Agreement or any evidence filed in support of the Claims explaining how the

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parties arrived at the \$10,000 liquidated damages figure. The Trustee further highlights several facts and circumstances that call into question the reasonableness of that figure. MacCase, dkt. 522, pp.14:14-17:21 & AttitudeCase, dkt. 191, pp.15:1-18:5.

The tentative ruling is that this is sufficient to cast grave doubt about whether the \$10,000 liquidated damages provision was simply a figure pulled from thin air and/or intended to punish parties for any future breaches. See *Beasley*, 864 S.W.2d at 48 ("when there is doubt whether a provision is intended to be liquidated damages or a penalty, the court must construe it as a penalty"). The tentative ruling is that the burden then shifted back to Wyndham to prove that it was not intended to be a penalty and, for the reasons set forth above, Wyndham has not carried that burden.

Therefore, the tentative ruling is to sustain the Trustee's objections and disallow damages arising from the liquidated damages provision without leave to amend.

(C) Wyndham has not carried its burden as to the other possible components of the Claims

As noted above, it is not clear from a review of the documents filed in support of the Claims whether Wyndham also seeks to recover (i) damages arising out of the Debtors' alleged failures to transfer timeshares to Wyndham and to pay the agreed-upon \$375 per unit transferred along with unpaid maintenance fees, (ii) attorneys' fees, and (iii) interest. Wyndham's opposition papers do little to clarify these ambiguities. But, because the Trustee does not appear to object to allowance of these categories in some dollar amount but does object to the lack of evidence establishing what that amount should be (MacCase dkt. 522, pp.19:6-20:11 & AttitudeCase, dkt. 191, pp.19:17-20:24), the tentative ruling is to order the parties to mandatory mediation to address these unresolved issues and to discuss the possibility of a global resolution of the Claim Objections.

Proposed order: The Trustee is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you

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CONT...

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Chapter 7

wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 3/22/21: [Note: subsequent to this tentative ruling being posted, the matter was continued per the parties' stipulation and the order thereon. See dkt. 536.]

Appearances required.

This Court is intentionally withholding a tentative ruling so as to not disrupt any possible settlement discussions but is prepared to give a comprehensive oral ruling, or a supplemental written tentative ruling, if the parties have not resolved their disputes by the start of the hearing.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

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Judge Neil Bason, Presiding
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Tuesday, May 11, 2021

Hearing Room 1545

2:00 PM

CONT... David MacMillan

Chapter 7

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr
Christian T Kim

Peter J Mastan (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 11, 2021

Hearing Room 1545

2:00 PM

2:19-10552 Attitude Marketing, Inc.

Chapter 7

#2.00 Cont'd hrg re: Trustee's Objection to Amended
Claim of Wyndham Vacation Resorts, Inc.
fr 3/23/21, 4/6/21, 4/27/21

Docket 191

Tentative Ruling:

Tentative Ruling for 5/11/21:

Please see the tentative ruling for the same claim objection in the
MacMillan/Martin bankruptcy case (Calendar No. 1, 5/11/21 at 2:00 p.m.).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Attitude Marketing, Inc.

Represented By
James A Dumas Jr
Christian T Kim

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
Christian T Kim
James A Dumas Jr

**United States Bankruptcy Court
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Los Angeles
Judge Neil Bason, Presiding
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Tuesday, May 11, 2021

Hearing Room 1545

2:00 PM

2:18-24302 GL Master Inc

Chapter 7

#3.00 Second Cont'd Evidentiary Hrg re: Order to Show Cause re: Civil Contempt and Directing (i) Debtor, (ii) Freda Wang, (iii) Thomas Polis, (iv) Lynn Chao, (v) The Law Offices of Lynn Chao to Appear and Show Cause Why This Court Should Not Find Them in Contempt and Impose Sanctions fr. 8/19/20, 9/17/20, 11/3/20, 12/1/20, 12/22/20, 1/5/21, 1/26/21, 4/27/21

Docket 173

Tentative Ruling:

Tentative Ruling for 5/11/21:

Continue to 6/1/21 at 1:00 p.m. pursuant to this Court's "Order (1) Implementing Memorandum Decision Re: Alleged Employees' Motion for Contempt and Sanctions, and (2) Setting Related Briefing Schedule" (dkt. 291). Appearances are not required on 5/11/21.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED. See dkt. 253, 289 (sanctions v. Young Young Foods) and dkt. 276, 291 (sanctions v. Debtor, ChaoLaw, etc.).]

Party Information

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Los Angeles
Judge Neil Bason, Presiding
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Tuesday, May 11, 2021

Hearing Room 1545

2:00 PM

CONT... GL Master Inc

Chapter 7

Debtor(s):

GL Master Inc

Represented By
Thomas J Polis

Trustee(s):

Edward M Wolkowitz (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Monday, May 17, 2021

Hearing Room 1545

10:00 AM
2:00-00000

Chapter

#1.00 ZoomGov Instructions for all matters on today's calendar:

Meeting ID: 160 398 8091

Password: 875137

Meeting URL: <https://cacb.zoomgov.com/j/1603988091>

Telephone: +1 669 254 5252 or +1 646 828 7666 or 833 568 8864 (Toll Free)

Please connect at least 5 minutes before the start of your hearing, and wait with your microphone muted until your matter is called. You do not need to call Chambers for advance approval. ZoomGov appearances are free

Docket 0

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Monday, May 17, 2021

Hearing Room 1545

10:45 AM

9:21-10412 Orcutt Rancho, LLC

Chapter 11

#1.00 Mediation hearing

Judge Barash to be heard by Judge Bason

Docket 0

Party Information

Debtor(s):

Orcutt Rancho, LLC

Represented By
Brett A Axelrod
Nicholas A Koffroth
Keith C Owens

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 18, 2021

Hearing Room 1545

9:00 AM

9:21-10412 Orcutt Rancho, LLC

Chapter 11

#1.00 ZoomGov Instructions for all matters on today's calendar:

Meeting ID: 161 941 9304

Password: 907489

Meeting URL: <https://cacb.zoomgov.com/j/1619419304>

Telephone: +1 669 254 5252 or +1 646 828 7666 or 833 568 8864 (Toll Free)

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Docket 0

Party Information

Debtor(s):

Orcutt Rancho, LLC

Represented By

Brett A Axelrod

Nicholas A Koffroth

Keith C Owens

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Wednesday, May 19, 2021

Hearing Room 1545

2:00 PM
2:00-00000

Chapter

#1.00 **ZoomGov Instructions for all matters on today's calendar:**

Meeting ID: 160 757 4472

Password: 843510

Meeting URL: <https://cacb.zoomgov.com/j/1607574472>

Telephone: +1 669 254 5252 or +1 646 828 7666 or 833 568 8864 (Toll Free)

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Docket 0

Tentative Ruling:

- NONE LISTED -

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Wednesday, May 19, 2021

Hearing Room 1545

2:30 PM

2:21-10956 LAX In-Flite Services, LLC

Chapter 11

#1.00 Cont'd hrg re: Motion of Debtor for Approval of Sale of
Substantially All of its Assets
fr. 05/11/21

Docket 59

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 2,
5/19/21 at 2:30 p.m.).

Party Information

Debtor(s):

LAX In-Flite Services, LLC

Represented By
Jeremy H Rothstein

Movant(s):

LAX In-Flite Services, LLC

Represented By
Jeremy H Rothstein
Jeremy H Rothstein

Trustee(s):

John-Patrick McGinnis Fritz (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Wednesday, May 19, 2021

Hearing Room 1545

2:30 PM

2:21-10956 LAX In-Flite Services, LLC

Chapter 11

#2.00 Cont'd Status Conference re: Chapter 11 Case
fr. 02/25/21, 03/02/21, 4/6/21, 4/27/21, 5/11/21

Docket 1

Tentative Ruling:

Tentative Ruling for 5/12/21:

Appearances required.

(1) Current issues

(a) Debtor's motion to sell substantially all of its assets ("Sale Motion," dkt. 61-65, 67), Opposition of Ruth Gonzales, Braubert Andres, and Guillermo J. Lopez Gutierrez ("Gonzales et al.") (dkt. 77), SubchapterV Trustee's response (dkt. 83), Joinder of Samuel Pearce Trust ("Pearce") (dkt. 86), Debtor's reply to Gonzales et al. (dkt. 88), Debtor's reply to SubchapterV Trustee's response (dkt. 95), Schedules to APA (dkt. 99)

The tentative ruling is that the following issues must be addressed before any sale can be approved. On the one hand, the tentative ruling is that Debtor has established sufficient justification for a quick sale of substantially all of its assets without overbids, instead of the delays and expenses of attempting to market the assets and hold an auction, which likely would result in *lower* net recoveries. Likewise, the tentative ruling is that Debtor has established sufficient justification for a sale instead of attempting to accomplish the same transaction through a chapter 11 plan, again because of the projected delays and costs of the latter proceeding (although those disadvantages might be exaggerated, given the speed and efficiency that are possible in Subchapter V).

In addition, the tentative ruling is that any sale can be free and clear of liens and other interests under 11 U.S.C. 363(f). Although this Court is not persuaded that "applicable nonbankruptcy law" provides for a sale of substantially all assets to an insider free and clear of successor liability and other interests in the assets (section 363(f)(1)), or that a lack of objection is the same as "consent[]" (section 363(f)(2)) (dkt.59, pp.11:3-12:10), nevertheless section 363(f)(4) and (5) apply. Any purported lien or interest would qualify as "disputed" under section 363(f)(4), because of Debtor's lien

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CONT... LAX In-Flite Services, LLC

Chapter 11

searches, the lack of notice to Debtor of any other encumbrances or interests (other than Permitted Encumbrances), and the usual grounds for contesting any successor liability. Alternatively, this Court is persuaded that section 363(f)(5) applies because of the existence of "legal or equitable proceeding[s]" that could compel holders of any liens or other interests to accept a "money satisfaction," such as foreclosures and receiverships in which sales can be accomplished free and clear. As stated in the posted "Procedures of Judge Bason" (available at www.cacb.uscourts.gov) under "Common matters":

Regarding § 363(f)(5), the judge does not follow *Clear Channel Outdoor, Inc. v. Knupfer (In re PW, LLC)*, 391 B.R. 25, 40 (B.A.P. 9th Cir. 2008). He has ruled that a sale free and clear is permissible under § 363(f)(5) whenever the interest at issue is subject to monetary valuation. See *In re Trans World Airlines, Inc.*, 322 F.3d 283, 290-91 (3d Cir. 2003) ("*TWA*") (because employees' claims were "subject to monetary valuation," debtor's assets could be sold free and clear of successor liability for such claims under § 363(f)(5)). Alternatively, the judge has ruled that "cramdown" is among the types of legal or equitable proceeding within the statute, or that *Clear Channel* is distinguishable in most cases under the rationale of *In re Jolan*, 403 B.R. 866 (Bankr. W.D. Wash. 2009), because holders of interests can be compelled in numerous other types of legal or equitable proceedings to accept a money satisfaction (which might be \$-0- in the case of an interest that is entirely underwater). Those proceedings include a hypothetical foreclosure by one of the lienholders, or a receivership (which could be initiated at the behest of creditors or by the debtor itself). See Cal. Code Civ. Proc. ("CCP") §564(b)(9) (power to appoint receiver to sell property); CCP § 568.5 (receiver empowered to sell property as provided in CCP §§701.510 et seq.); CCP § 701.630 (extinguishment of liens); CCP § 701.680 (binding effect of sale). The judge respectfully disagrees with *In re Hassen Imports P'ship*, 502 B.R. 851, 860 et seq. (C.D. Cal. 2013) (hypothetical foreclosure sale did not qualify under section 363(f)(5)). See generally *In re Catalina Sea Ranch, LLC* (Case No. 2:19-bk-24467-NB), dkt. 122 (approving sale to insider, free and clear of successor liability).

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CONT... LAX In-Flite Services, LLC

Chapter 11

On the other hand, (i) the insider nature of the proposed transaction requires greater scrutiny and (ii) unless the proposed sale is assured of generating funds sufficient to pay a meaningful dividend to nonpriority unsecured creditors, it does not appear appropriate to approve the proposed sale. This Court's reasoning is that, if a sale is a permissible substitute for a plan (under *Braniff, Lionel, Walter, Continental Airlines, Coastal Indus., Abbots Dairies*, etc. - see dkt.83, *passim and especially* pp.2:19-5:4 and 8:1-16:17), then this Court must consider whether the proposed transaction, if embodied in a proposed plan, would fail the tests for confirmation, and whether the proposed transaction would otherwise be contrary to the process and distribution scheme contemplated by the Bankruptcy Code. This approach is consistent with the definition of "cause" to dismiss or convert a case under 11 U.S.C. 1112: if no plan could be confirmed within any reasonable time frame, then this Court "shall" convert or dismiss the case. See 11 U.S.C. 1112(b)(4)(J).

The tentative ruling is that, if no meaningful dividend can be assured, then the proposed disposition of Debtor's assets would not satisfy the "fair and equitable" standard for confirmation of any plan, and it would be inappropriate to permit an "end run" around that standard, without even having an opportunity for creditors to vote (because there is no plan), while providing insiders with various benefits from the proposed transaction. In addition, there is insufficient assurance, on such shortened time, that the best interests of creditors test (11 U.S.C. 1129(a)(7)) would not favor a chapter 7 liquidation.

Conversion to chapter 7 would preserve the integrity of the system by enabling an independent investigation and assessment. Specifically, it is possible that a chapter 7 trustee: (w) could either obtain a better sale price from the proposed buyer or competitors, (x) could investigate Debtor's vague assertions that unspecified "problems" (dkt. 59, p.3:20) transformed a business from one that "historically operated at a profit" (*id.*, p.3:19) into one that allegedly "would require significant capital investment before it could even break even" (*id.*, p.4:16-17), (y) could uncover claims against insiders, avoidance actions, or other sources of recoveries, and alternatively (z) could, at the very least, provide greater assurance that all "stones had been turned over" to explore whether the foregoing recoveries were possible.

In other words, the tentative ruling is that it is inappropriate to authorize

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2:30 PM

CONT... LAX In-Flite Services, LLC

Chapter 11

a sale of substantially all assets, with the benefits and protections to insiders and the buyer of releases and cutting off potential successor liability and other claims, unless a meaningful dividend to nonpriority unsecured creditors can be assured. True, conversion or dismissal of this case might produce *smaller*, not greater, chances of any meaningful recoveries. But the tentative ruling is that the integrity of the system requires either the protections of a chapter 7 trustee or, alternatively, assurance of a meaningful distribution to nonpriority unsecured creditors. Absent the latter, the tentative ruling is that this Court cannot approve the proposed quick, no-voting, no-overbid sale to insiders with releases and a transfer of assets to them free and clear of successor liability.

(b) Plan (dkt. 89)

The tentative ruling is that, although Debtor's Plan is essentially a blank slate, the details of which Debtor proposes to supply after the (hoped for) approval of the Sale Motion, that is sufficient under the circumstances. The tentative ruling is not to take any further action with respect to the Plan at this time.

(2) Dates/procedures. This case was filed on 2/5/21.

(a) Bar date: 4/16/21 per General Order 20-01 (70 days after petition date in Subchapter V cases) (DO NOT SERVE any notice: one has already been sent, see dkt.16).

(b) Procedures order: dkt.3 (timely served, dkt.9)

(c) Plan/Disclosure Statement: See Section (1)(b) above.

(d) Continued status conference: 6/15/21 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's

**United States Bankruptcy Court
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2:30 PM

CONT... LAX In-Flite Services, LLC

Chapter 11

COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

LAX In-Flite Services, LLC

Represented By
Jeremy H Rothstein

Trustee(s):

John-Patrick McGinnis Fritz (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, May 20, 2021

Hearing Room 1545

8:00 AM
2:00-00000

Chapter

#1.00 ZoomGov Instructions for all matters on today's calendar:

Meeting ID: 160 537 1959
Password: 078614

Meeting URL: <https://cacb.zoomgov.com/j/1605371959>

Telephone: +1 669 254 5252 or +1 646 828 7666 or 833 568 8864 (Toll Free)

Please connect at least 5 minutes before the start of your hearing, and wait with your microphone muted until your matter is called. You do not need to call Chambers for advance approval. ZoomGov appearances are free

Docket 0

Tentative Ruling:

- NONE LISTED -

**United States Bankruptcy Court
Central District of California
Los Angeles
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Thursday, May 20, 2021

Hearing Room 1545

8:30 AM

2:16-26934 Michael A Sandoval

Chapter 13

#1.00 Hrg re: Motion under Local Bankruptcy Rule 3015-1 (n)
and (w) to modify plan or suspend plan payments

Docket 58

Tentative Ruling:

Appearances required, absent either (1) an agreement with the Chapter 13 Trustee's office to further continue this matter or (2) withdrawal of the motion by Debtor. There is no tentative ruling, but the parties should be prepared to address the issues raised by the Chapter 13 Trustee (dkt. 60).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Michael A Sandoval

Represented By
Christopher J Langley

Movant(s):

Michael A Sandoval

Represented By
Christopher J Langley

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, May 20, 2021

Hearing Room 1545

8:30 AM

CONT... Michael A Sandoval

Chapter 13

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, May 20, 2021

Hearing Room 1545

8:30 AM

2:20-10713 Antonio G Campos and Sandra P Campos-Perez

Chapter 13

#2.00 Hrg re: Motion under Local Bankruptcy Rule 3015-1 (n)
and (w) to modify plan or suspend plan payments

Docket 37

Tentative Ruling:

Appearances are not required.

Grant in accordance with the Chapter 13 Trustee's comments (dkt. 45).

Proposed order: Debtor is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Antonio G Campos

Represented By
Stephen S Smyth

Joint Debtor(s):

Sandra P Campos-Perez

Represented By
Stephen S Smyth

**United States Bankruptcy Court
Central District of California
Los Angeles
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Thursday, May 20, 2021

Hearing Room 1545

8:30 AM

CONT... Antonio G Campos and Sandra P Campos-Perez

Chapter 13

Movant(s):

Antonio G Campos

Represented By
Stephen S Smyth

Sandra P Campos-Perez

Represented By
Stephen S Smyth

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, May 20, 2021

Hearing Room 1545

8:30 AM

2:16-26292 Terica Amber Roberts

Chapter 13

#3.00 Hrg re: Application of Attorney for Debtor for Additional Fees and Related Expenses in a Pending Chapter 13 Case Subject to a Rights And Responsibilities Agreement (RARA)

Docket 122

*** VACATED *** REASON: Voluntary dismissal of motion filed 04/20/21 (dkt. 131)

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Terica Amber Roberts

Represented By
Dheeraj K Singhal

Movant(s):

Terica Amber Roberts

Represented By
Dheeraj K Singhal
Dheeraj K Singhal

Trustee(s):

Kathy A Dockery (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar

Thursday, May 20, 2021

Hearing Room 1545

8:30 AM

2:18-23374 Mark Edward Fitzpatrick and Cheri Suzanne Karbum

Chapter 13

#4.00 Hrg re: Conversion to Chapter 7

Docket 92

Tentative Ruling:

Appearances are not required.

Grant.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Mark Edward Fitzpatrick

Represented By
Roland H Kedikian

Joint Debtor(s):

Cheri Suzanne Karbum

Represented By
Roland H Kedikian

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, May 20, 2021

Hearing Room 1545

8:30 AM

CONT... Mark Edward Fitzpatrick and Cheri Suzanne Karbum

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, May 20, 2021

Hearing Room 1545

8:30 AM

2:20-20815 Susan E Brooks

Chapter 13

#5.00 Hrg re: Motion to Commence Loan Modification
Management Program (LMM)

Docket 36

Tentative Ruling:

Appearances required.

There is no tentative ruling, however the parties should be prepared to address the issues raised in the opposition filed by U.S. Bank, NA as Legal Title Trustee for Truman 2016 SC6 Title Trust (dkt. 37) and Debtor's reply (dkt. 45).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Susan E Brooks

Represented By
Stephen S Smyth
William J Smyth

Movant(s):

Susan E Brooks

Represented By
Stephen S Smyth

**United States Bankruptcy Court
Central District of California
Los Angeles
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Thursday, May 20, 2021

Hearing Room 1545

8:30 AM

CONT... Susan E Brooks

William J Smyth

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, May 20, 2021

Hearing Room 1545

8:30 AM

2:21-12046 Kelsey Smith

Chapter 13

#6.00 Hrg re: Motion for order determining value of collateral
[11 U.S.C. section 506(a), FRBP 3012]

Docket 23

Tentative Ruling:

Appearances are not required.

Grant.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Kelsey Smith

Represented By
Devin Sawdayi

Movant(s):

Kelsey Smith

Represented By
Devin Sawdayi

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Thursday, May 20, 2021

Hearing Room 1545

8:30 AM

CONT... Kelsey Smith

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, May 20, 2021

Hearing Room 1545

8:30 AM

2:21-11129 Carmen Zazueta Montalvan

Chapter 13

#7.00 Hrg re: Motion By Debtor Carmen Z. Montalvan For
Order Sustaining Objection To Claim No. 5 Of
Stohlman & Rogers, Inc., dba Lakeview Petroleum

Docket 26

Tentative Ruling:

Grant in part and deny in part as set forth below. Appearances are not required.

Debtor objects to the claim of Stohlman & Rogers, Inc., dba Lakeview Petroleum ("Lakeview") on the grounds that its *in personam* claim was discharged in her prior chapter 7 case and its lien was avoided in her 2016 chapter 13 bankruptcy case. The tentative ruling is that discharge is effective notwithstanding any lack of notice, because the lack of notice made no difference (pursuant to *In re Beezly*, 994 F.2d 1433 (9th Cir. 1993)), but the lien avoidance is essentially vacated pursuant to 11 U.S.C. 549(b)(1)(B) so Lakeview retains its *in rem* rights. See Lakeview Opp. (dkt. 31), pp.5:5-6:10 (and authorities cited therein).

Nothing in the foregoing tentative ruling should be construed to preclude Debtor's latest lien avoidance motion (dkt. 35) or any defenses thereto.

Proposed order: Lakeview is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are

**United States Bankruptcy Court
Central District of California
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8:30 AM

CONT... Carmen Zazueta Montalvan

Chapter 13

appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Carmen Zazueta Montalvan

Represented By
Jeffrey J Hagen

Movant(s):

Carmen Zazueta Montalvan

Represented By
Jeffrey J Hagen

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, May 20, 2021

Hearing Room 1545

8:30 AM

2:21-12076 Daniel Michael Torres and Heidi Lynn Torres

Chapter 13

#8.00 Hrg re: Objection to Claim Number 2 by Claimant
American Honda Finance Corporation

Docket 13

Tentative Ruling:

Appearances are not required.

Grant, such that the lease payoff amount of \$16,831.27 listed in the subject proof of claim (POC #2) is reduced to account for the postpetition payoff of the \$534.09 arrears that had existed as of the petition date, resulting in an allowed claim of \$16,297.18.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Daniel Michael Torres

Represented By
Daniela P Romero

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Central District of California
Los Angeles
Judge Neil Bason, Presiding
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8:30 AM

CONT... Daniel Michael Torres and Heidi Lynn Torres

Chapter 13

Joint Debtor(s):

Heidi Lynn Torres

Represented By
Daniela P Romero

Movant(s):

Daniel Michael Torres

Represented By
Daniela P Romero
Daniela P Romero
Daniela P Romero

Heidi Lynn Torres

Represented By
Daniela P Romero
Daniela P Romero

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, May 20, 2021

Hearing Room 1545

8:30 AM

2:20-18427 **Bedros Missak Yazijian**

Chapter 13

#9.00 Hrg re: Debtor and creditor, Susan Go, successor trustee of the Edmund B. Nebhan revocable trust dated 8/27/2014, joint motion for approval of compromise of claim #7 between debtor and creditor

Docket 57

Tentative Ruling:

Appearances are not required.

Grant.

Proposed order: Debtor is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Bedros Missak Yazijian

Represented By
Roland H Kedikian

Movant(s):

Bedros Missak Yazijian

Represented By

**United States Bankruptcy Court
Central District of California
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8:30 AM

CONT... Bedros Missak Yazijian

Chapter 13

Roland H Kedikian
Roland H Kedikian

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, May 20, 2021

Hearing Room 1545

8:30 AM

2:20-18427 Bedros Missak Yazijian

Chapter 13

#10.00 Cont'd hrg re: Objection to Proof of Claim Filed by Susan Go, Successor Trustee of the Edmond B. Nebhan Revocable Trust Dated August 27, 2014 Claim #7 fr. 1/21/21, 3/18/21

Docket 26

Tentative Ruling:

Tentative Ruling for 5/20/21:

Continue to 6/24/21 at 8:30 a.m. Appearances are not required on 5/20/21.

The Court has considered the joint motion to approve compromise (see calendar no. 9, 5/20/21 at 8:30 a.m.). In view of this Court's tentative ruling on the motion to approve compromise, the tentative ruling is to grant a short continuance to the date and time set forth above, which this Court anticipates will be vacated after the entry of an order on the motion to approve compromise has been entered and the claim objection has been withdrawn.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 1/21/21:

Continue to 3/18/21 at 8:30 a.m. and direct the parties to mandatory mediation before one of this Court's panel of mediators (*not* a bankruptcy judge), with a **deadline of 2/5/21** to lodge a mediation order. Appearances

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8:30 AM

CONT... **Bedros Missak Yazijian**
are not required on 1/21/21.

Chapter 13

This Court has reviewed Debtor's objection (dkt. 26), the claimant's opposition (dkt. 39), and Debtor's reply (dkt. 41). The objection is based on alleged usury.

"California's usury restrictions are a curious and confusing blend of the California State Constitution, statutory law, and case law pertaining to both Article XV of the California Constitution and the relevant usury statutes." *Wishnev v. Northwestern Mut. Life Ins. Co.*, 162 F.Supp.3d 930, 937 (ND Cal. 2016). But both parties' papers cite almost no authority.

The claimant seeks a continuance for discovery, which she believes will show (a) that the loan was made for "business purposes" and (b) that the loan was arranged by a real estate broker. Debtor replies (x) that "even if funds were used for business purposes they would still be usurious" (citing section 2 of Article XV of The California Constitution); (y) that the exemption for a real estate broker "arranging" a loan requires that the broker "receives a commission and actively participates in the negotiation and drafting of the loan terms" (dkt.41, p.3:1-2) (citing no authority, and providing no evidence of a lack of such involvement); and (z) that the claimant should have documentation on these things, and is only seeking extensive discovery to harass Debtor, "beat [Debtor] into submission," and "delay this bankruptcy." Dkt.41, p.3:17-18. Debtor also requests that, if this Court permits discovery into the issues raised by the claimant, Debtor be permitted to do its own discovery.

The tentative ruling is that normally the parties are free to propound any discovery they believe might lead to admissible evidence, subject to other parties' rights to seek orders quashing or limiting discovery. But in this instance it appears appropriate to stay discovery and order mandatory mediation in view of (i) the complexities of usury law, (ii) the relatively small dollar amounts at issue, relative to the potential attorney fees of litigation (see POC, reproduced at dkt.26, Ex.A, last page, listing \$33,780.82 in interest), and (iii) the difficulty of discovery due to the length of time since the loan's inception, the transfers of the loan, and the likelihood of a lack of rigorous documentation by either party (or any predecessor in interest to the claimant). In other words, mediation appears particularly appropriate because there appears to be a potential for attorney fees to exceed the discounted present value of each party's chances of obtaining a net benefit at the end of their

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8:30 AM

CONT... **Bedros Missak Yazijian**
litigation.

Chapter 13

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Bedros Missak Yazijian

Represented By
Roland H Kedikian

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Thursday, May 20, 2021

Hearing Room 1545

8:30 AM

2:20-16719 Diana Mitra Saidian

Chapter 13

#11.00 Hrg re: Motion for Entry of Order Approving Stipulation
Granting Relief from the Automatic Stay

Docket 105

Tentative Ruling:

Please see the tentative ruling on the settlement motion (calendar no. 12,
5/20/21 at 8:30 a.m.).

Party Information

Debtor(s):

Diana Mitra Saidian

Represented By
Raymond H. Aver

Movant(s):

Investment Management Co., LLC

Represented By
Allan D Sarver

Trustee(s):

Kathy A Dockery (TR)

Represented By
Fari B Nejadpour

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Thursday, May 20, 2021

Hearing Room 1545

8:30 AM

2:20-16719 Diana Mitra Saidian

Chapter 13

#12.00 Hrg re: Motion For Order Approving And Authorities (A) Compromise Of Controversy With Investment Management Company, LLC; And (B) Postpetition Financing

Docket 113

Tentative Ruling:

The tentative ruling is that the settlement/finance motion and associated relief from the automatic stay cannot be approved in its present form, for the reasons set forth below. Appearances required.

Debtor proposes to satisfy the claim of Investment Management Company, LLC ("IMC") in a somewhat reduced dollar amount on or before 11/24/21, failing which IMC may foreclose without reducing its claim. Meanwhile Debtor and her non-debtor husband would stipulate to *in rem* relief and dismissal of this bankruptcy case with a bar to refiling a future bankruptcy case. See Settlement/Refi. Motion (dkt.113), Ex.1&2, at PDF pp. 24-43.

According to the record before this Court, there is substantial equity in the subject property, so any bar against refiling and any *in rem* relief could prejudice creditors other than IMC. First, the parties' papers do not allege facts or assert arguments that the predicates for dismissal with a bar or for *in rem* relief are satisfied under 11 U.S.C. 109(g)(1) or 362(d)(4), or any other authority, and there is a general public policy against enforcing contractual commitments not to file a future bankruptcy case. The parties papers do not analyze those issues at all.

Second, the parties' papers do not assert that the non-debtor husband's creditors have received notice. This Court has due process concerns about granting the requested relief without notice to them.

Third, such relief would appear to prejudice future creditors of Debtor, or her non-debtor husband, or both, and there is no way to know who those creditors might be.

Fourth, this Court has concerns with adding this Court's implicit imprimatur regarding the proposed new financing, which appears to have inconsistent provisions about whether the new loan will be a business or personal loan, and has onerous regular and default interest rates. See

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CONT... Diana Mitra Saidian

Chapter 13

dkt.113, at PDF p.46 (12% rate, 22% default rate, compounded monthly); and
dkt.113 at PDF p.50 (Certificate of Business Purpose Loan).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Diana Mitra Saidian

Represented By
Raymond H. Aver

Movant(s):

Diana Mitra Saidian

Represented By
Raymond H. Aver

Trustee(s):

Kathy A Dockery (TR)

Represented By
Fari B Nejadpour

**United States Bankruptcy Court
Central District of California
Los Angeles
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8:30 AM

2:20-16719 Diana Mitra Saidian

Chapter 13

#13.00 Cont'd hrg re: Objection to Claim No. 5-2 Filed by
Investment Management Company LLC
fr. 11/19/20, 12/17/20, 1/21/21, 3/18/21, 04/22/21

Docket 53

Tentative Ruling:

Please see the tentative ruling on the settlement motion (calendar no. 12,
5/20/21 at 8:30 a.m.).

Party Information

Debtor(s):

Diana Mitra Saidian

Represented By
Raymond H. Aver

Trustee(s):

Kathy A Dockery (TR)

Represented By
Fari B Nejadpour

**United States Bankruptcy Court
Central District of California
Los Angeles
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Thursday, May 20, 2021

Hearing Room 1545

8:30 AM

2:16-10308 Ramona Ann Brown

Chapter 13

#14.00 Cont'd hrg re: Motion under Local Bankruptcy Rule 3015-1
(n) and (w) to modify plan or suspend plan payments
fr. 2/18/21, 3/18/21

Docket 89

Tentative Ruling:

Tentative Ruling for 5/20/21:

Appearances required.

At the hearing on 3/18/21, this Court was persuaded to continue this matter for the Trustee to review Debtor's 2020 tax return. There is no tentative ruling, but the parties should be prepared to provide an update on the status of that review, and address the merits of the motion.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 3/18/21:

Appearances required.

Based on the arguments and representations of the Trustee on 2/18/21, this Court continued the matter to allow time for the Trustee to review Debtor's gambling records. There is no tentative ruling, but the parties should be prepared to provide an update on the status of that review, and

**United States Bankruptcy Court
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8:30 AM

CONT... **Ramona Ann Brown**

Chapter 13

address the merits of the motion.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 2/18/21:

Appearances required. Debtor is directed to address the issues raised by the Chapter 13 Trustee (dkt. 95) and whether Debtor's response (dkt. 103) sufficiently addresses the Trustee's concerns.

On the one hand, Debtor's age, retirement status, extremely modest budget, and increases in monthly mortgage payments all favor some leeway in permitting Debtor's proposed modification of her confirmed chapter 13 plan. On the other hand, this Court is concerned that Debtor's math (and her allegations) do not entirely "add up."

In particular, although Debtor asserts (a) that she spends a "de minimis" amount on gambling and (b) that the \$61,675.00 of winnings and \$52,631.00 of losses on her tax returns are gross amounts that do not accurately reflect the netting of wins and losses, nevertheless (i) the net appears to be approximately \$9,000 of winnings (\$61,675.00 - \$52,631.00 = \$9,044.00) that were not used to pay creditors; and (ii) she admits (dkt.103, para.7) to visiting a casino "about 5 times" in 2019, and "load[ing] up the card" with approximately \$300 or \$400 each time (although there is some ambiguity about whether sometimes those dollar amounts are reduced by carrying over alleged winnings from prior gambling), which would appear to mean an admission that she spent approximately \$1,500 to \$2,000 on gambling instead of paying her creditors. In addition, Debtor appears to be asserting that she generally wins (to the extent she is asserting that her winnings are

**United States Bankruptcy Court
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CONT...

Ramona Ann Brown

Chapter 13

carried over), and yet her own evidence (dkt.103, Ex.C) is that the casino has the edge and gamblers generally lose. In addition, this Court is concerned that Debtor's extremely modest budget (dkt.103, Ex.B) does not appear to reflect any ability to use \$300 or \$400 on each visit to a casino, even supposing significant "belt tightening" by Debtor. All of this calls into question whether Debtor is hiding other sources of income, and/or otherwise being less than truthful.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Ramona Ann Brown

Represented By
Kevin T Simon

Movant(s):

Ramona Ann Brown

Represented By
Kevin T Simon
Kevin T Simon

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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8:30 AM

2:17-19762 Robert E Read

Chapter 13

#15.00 Cont'd hrg re: Motion to Dismiss Case for
Failure to Pay Post-Confirmation Taxes
fr. 3/18/21, 04/22/21

Docket 110

Tentative Ruling:

Tentative Ruling for 5/20/21:

Appearances required.

This matter has been continued a number of times to allow Debtor a brief opportunity to explore potential options to address the outstanding postpetition taxes. At the hearing on 4/22/21 this Court was persuaded to continue the matter to this date and set a deadline of 5/6/21 for Debtor to file supplemental declaration(s). This Court has reviewed Debtor's untimely status report (dkt. 116, filed 5/12/21). There is no tentative ruling, the parties should be prepared to provide an update on the status of their negotiations.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 4/22/21:

Appearances required.

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8:30 AM

CONT... Robert E Read

Chapter 13

Based on a review of Debtor's opposition papers (dkt. 114), this Court was persuaded to continue the 3/18/21 hearing to this date to allow Debtor a brief opportunity to explore potential options to address the outstanding postpetition taxes. There is no tentative ruling. Debtor should be prepared to update this Court on the status of his investigations and whether he has a viable option to address the outstanding postpetition taxes.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 3/18/21:

Continue to 4/22/21 at 8:30 a.m. to allow Debtor a brief opportunity to explore potential options to address the outstanding postpetition taxes. That continuance should not be misconstrued as any authorization to continue non-payment of taxes. Appearances are not required on 3/18/21.

Key documents reviewed (in addition to motion papers): Debtor's opposition (dkt. 114), reply of United States on behalf of Internal Revenue Service (dkt. 115).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's

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CONT... Robert E Read

Chapter 13

COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Robert E Read

Represented By
Donna R Dishbak

Movant(s):

UNITED STATES OF AMERICA

Represented By
Jolene Tanner
John D Ellis

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Los Angeles
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Hearing Room 1545

8:30 AM

2:19-21677 Jan Michael Foster

Chapter 13

#16.00 Cont'd hrg re: Motion Under Local Bankruptcy Rule 3015-1 (n) and (w) to Modify Plan or Suspend Plan Payments fr. 04/22/21

Docket 61

Tentative Ruling:

Tentative Ruling for 5/20/21:
Appearances required.

This Court continued the 4/22/21 hearing on this matter to this date pursuant to the request of the parties and Debtor's exploration of a possible conversion to chapter 7. There is no tentative ruling, but the parties should be prepared to address (a) the issues raised by the Chapter 13 Trustee (dkt. 63) and/or (b) conversion to chapter 7 or dismissal of this case.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 4/22/21:

Appearances required, absent either (1) an agreement with the Chapter 13 Trustee's office to further continue this matter or (2) withdrawal of the motion by Debtor. There is no tentative ruling, but the parties should be prepared to address the issues raised by the Chapter 13 Trustee (dkt. 63).

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CONT... **Jan Michael Foster**

Chapter 13

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Jan Michael Foster

Represented By
Stephen L Burton

Movant(s):

Jan Michael Foster

Represented By
Stephen L Burton

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Hearing Room 1545

8:30 AM

2:20-15627 Tonya Elaine Crawford

Chapter 13

#17.00 Cont'd hrg re: Motion to Avoid Lien Junior Lien
with Trojan Capital Investments, LLC
fr. 2/18/21, 04/22/21

Docket 58

***** VACATED *** REASON: Resolved by stipulation (dkt. 66) and order thereon.**

Tentative Ruling:

Party Information

Debtor(s):

Tonya Elaine Crawford

Represented By
Stephen S Smyth

Movant(s):

Tonya Elaine Crawford

Represented By
Stephen S Smyth

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Thursday, May 20, 2021

Hearing Room 1545

8:30 AM

2:20-18844 Graciela Gomez

Chapter 13

#18.00 Cont'd hrg re: Amended Motion in Individual Case
for Order Authorizing Use of Cash Collateral
fr. 12/17/20, 2/18/21, 3/18/21, 04/22/21

Docket 32

Tentative Ruling:

Tentative Ruling for 5/20/21:

Appearances required.

This matter has been continued multiple times (since 12/17/20) for Debtor either to reach an agreement regarding the use of cash collateral or to refinance the debt owed to First Commerce, LLC ("First Commerce"). At the hearing on 4/22/21, this Court was persuaded to further continue this matter to this date. There is no tentative ruling. The parties should be prepared to update this Court on the status of their negotiations.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 4/22/21:

Appearances required.

This matter has been continued multiple times (since 12/17/20) for Debtor either to reach an agreement regarding the use of cash collateral or to

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CONT... Graciela Gomez

Chapter 13

refinance the debt owed to First Commerce, LLC ("First Commerce"). On 4/13/21, however, Debtor filed a proposed chapter 13 plan (dkt.48) that appears to have abandoned any refinancing, and proposes to pay First Commerce its arrears of \$69,519.35 (see POC 7-1, p.2, line 9) with 0% interest. Plan (dkt.48), p.6. Meanwhile, have the parties reached any agreement regarding the use of cash collateral?

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 3/18/21:
Appearances required.

Based on the arguments and representations of the parties on 2/18/21, this Court continued the matter for Debtor to pursue a refinance of the property. There is no tentative ruling, but the parties should be prepared to provide an update on the status of any refinance.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the

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CONT... Graciela Gomez

Chapter 13

first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 2/18/21:
Appearances required.

Based on the arguments and representations of the parties on 12/17/20, this Court continued the matter to this date to allow time for them to negotiate the terms of a cash collateral stipulation. But after the hearing Debtor filed a motion to refinance the subject property and pay off First Commerce, LLC's lien in full, which this Court granted. See dkt. 36, 39. There is no tentative ruling. The parties should be prepared to address (1) whether the refinance transaction did or did not close; (2) whether, if the refinancing did close, there is a need for retroactive approval of Debtor's use of First Commerce, LLC's cash collateral prior to its payoff or whether that issue is now moot; and (3) whether there is a need for this Court to authorize prospective use of the new lender's cash collateral.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 12/17/20:
Appearances required.

There is no tentative ruling. The parties should be prepared to address the issues raised in the motion papers (dkt. 32) and the opposition papers

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CONT... Graciela Gomez
(dkt.34).

Chapter 13

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Graciela Gomez

Represented By
Christine A Kingston

Movant(s):

Graciela Gomez

Represented By
Christine A Kingston

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Hearing Room 1545

8:30 AM

2:20-18003 Yolanda Espinosa

Chapter 13

#19.00 Cont'd hrg re: Objection to Proof of Claim #8 Filed
by Bank of America, N.A.
fr. 1/21/21, 03/18/21

Docket 23

Tentative Ruling:

Tentative Ruling for 5/20/21:

Appearances required.

The Court continued the 1/21/21 hearing on this matter to 3/18/21 to allow claimant to commence an adversary proceeding and/or to allow the parties to consensual resolution. On 3/16/21, this Court entered an order approving the stipulation by the parties to continue the 3/18/21 hearing to this date. There is no tentative ruling, but the parties should be prepared to address the status of their negotiations and/or whether claimant intends to initiate the aforementioned adversary proceeding.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 1/21/21:

Continue to 3/18/21 at 8:30 a.m. so that claimant can commence its contemplated adversary proceeding or the parties can reach a consensual resolution. Counsel for Debtor is cautioned about the need to exercise

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CONT... Yolanda Espinosa

Chapter 13

reasonable judgment in how much to expend in paying attorney fees instead of paying creditors. Appearances are not required on 1/21/21.

(1) Reasons for continuance

This Court has reviewed Debtor's motion (dkt. 23), the claimant's opposition (dkt. 30), and Debtor's reply (dkt. 31). Although Debtor's reply argues that the claimant has not cited authority, that puts the cart before the horse. Debtor is the objecting party and Debtor has not cited any authority that a deed of trust on real property is void or unenforceable as a matter of law when it includes the correct street address and a conflicting legal description for a particular parcel.

Alternatively, even if Debtor did not need to cite any such authority (which is incorrect), this Court's understanding of California law is contrary to Debtor's position. Based on unrelated litigation before this Court, the general rule appears to be that a transfer of an interest in property "is not void for uncertainty because of errors or inconsistency in some of the particulars of the description" if it is possible "from the whole description to ascertain and identify the land intended to be conveyed." *Gyurec v. Bank of New York Trust Co., NA* (Cal. Ct. App., 4th Dist., 2014) (unpublished, Case No. No. G050083) (quoting *Leonard v. Osburn*, 169 Cal. 157, 160 (1915)) (correct street address sufficient for deed of trust's validity, even though it incorrectly described property as located in "Township 4 North" instead of Township 4 South"). See also Cal. Code Civ. P. 2077 ("Where there are certain definite and ascertained particulars in the description, the addition of others which are indefinite, unknown, or false, does not frustrate the conveyance, but it is to be construed by the first mentioned particulars.").

Based on the foregoing, it appears appropriate to continue this hearing for the parties either to litigate the issue or, perhaps, agree to a consensual resolution.

(2) Expenditure of funds on attorney fees

Given the apparent principles of California law (summarized above), Debtor's counsel is reminded of the need to do a cost/benefit analysis in determining whether it is worth expending funds on attorney fees that otherwise would go to pay creditors. Debtor's counsel is reminded that the posted "Procedures of Judge Bason" (available at www.cacb.uscourts.gov) state:

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CONT...

Yolanda Espinosa

Chapter 13

§ 502: claim objections & cost/benefit analysis. When objecting to claims, be sure to include an analysis of whether the costs of preparing and litigating the claim objection (administrative expenses) do not exceed the anticipated benefits (reductions in claims). For example, if the anticipated dividend is small or 0% then the attorney fees incurred in prosecuting your claim objection to any general unsecured claim probably will exceed the benefit to the bankruptcy estate/debtor, so filing that objection would be a waste of the bankruptcy estate's (and everyone else's) resources (unless, for example, the claim is nondischargeable, in which event the attorney fees might well be justified).

Debtor's claim objection does not include any cost/benefit analysis. If Debtor decides to continue with the claim objection, this Court will set a deadline at a future hearing for Debtor's counsel to file a cost/benefit declaration.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Yolanda Espinosa

Represented By
Barry E Borowitz

Movant(s):

Yolanda Espinosa

Represented By
Barry E Borowitz

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CONT... Yolanda Espinosa

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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9:30 AM
2:00-00000

Chapter

**#1.00 PLEASE BE ADVISED THAT THE CHAPTER 13 9:30 AM
CONFIRMATION CALENDAR CAN BE VIEWED ON THE
COURT'S WEBSITE (www.cacb.uscourts.gov) UNDER:
JUDGES>BASON, N.>CHAPTER 13>CONFIRMATION HEARINGS CALENDAR**

Docket 0

Tentative Ruling:

- NONE LISTED -

**United States Bankruptcy Court
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Thursday, May 20, 2021

Hearing Room 1545

11:00 AM
2:00-00000

Chapter

**#1.00 PLEASE BE ADVISED THAT THE CHAPTER 13 HEARINGS
at 11:00 AM CAN BE VIEWED ON THE COURT'S WEBSITE
(www.cacb.uscourts.gov) UNDER: JUDGES>BASON, N.>CHAPTER 13**

Docket 0

Tentative Ruling:

- NONE LISTED -

**United States Bankruptcy Court
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Thursday, May 20, 2021

Hearing Room 1545

11:30 AM

2:19-23664 Liat Talasazan

Chapter 7

#1.00 Cont'd hrg re: Trustee's Motion for Order Authorizing Sale of Real Property [636 N. Laurel Avenue, Los Angeles, CA 90048]: (A) Outside the Ordinary Course of Business; (B) Free and Clear of Liens; (C) Subject to Overbids and (D) For Determination of Good Faith Purchasers Under Section 363(m) fr. 5/11/21

Docket 588

Tentative Ruling:

Tentative Ruling for 5/20/21:

Continue to 6/29/21 on the 2:00 p.m. calendar (not to be called before 2:30 p.m.), concurrent with other matters. Appearances are not required on 5/20/21.

Reasons: This status conference on the sale of the Laurel Property was set so as to be able to address any issues that might arise concerning the closing of that sale, or any related matters. This Court is not aware of any such matters, and accordingly the tentative ruling is to continue this matter as set forth above.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

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11:30 AM

CONT... Liat Talasazan

Chapter 7

Debtor(s):

Liat Talasazan

Represented By
Giovanni Orantes
Luis A Solorzano

Trustee(s):

Caroline Renee Djang (TR)

Represented By
David Wood

**United States Bankruptcy Court
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Hearing Room 1545

1:30 PM

9:21-10412 Orcutt Rancho, LLC

Chapter 11

#1.00 **MEDIATION HRG. BEFORE JUDGE BASON**

ZoomGov Instructions for all matters on today's calendar:

Meeting ID: 161 272 0739

Password: 054214

Meeting URL: <https://cacb.zoomgov.com/j/1612720739>

Telephone: +1 669 254 5252 or +1 646 828 7666 or 833 568 8864 (Toll Free)

Please connect at least 5 minutes before the start of your hearing, and wait with your microphone muted until your matter is called. You do not need to call Chambers for advance approval. ZoomGov appearances are free

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Orcutt Rancho, LLC

Represented By
Brett A Axelrod
Nicholas A Koffroth
Keith C Owens

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Friday, May 21, 2021

Hearing Room 1545

10:30 AM

9:21-10412 Orcutt Rancho, LLC

Chapter 11

#1.00 **MEDIATION HRG. BEFORE JUDGE BASON**

ZoomGov Instructions for all matters on today's calendar:

Meeting ID: 160 067 2183

Password: 055094

Meeting URL: <https://cacb.zoomgov.com/j/1600672183>

Telephone: +1 669 254 5252 or +1 646 828 7666 or 833 568 8864 (Toll Free)

Please connect at least 5 minutes before the start of your hearing, and wait with your microphone muted until your matter is called. You do not need to call Chambers for advance approval. ZoomGov appearances are free

Docket 0

Party Information

Debtor(s):

Orcutt Rancho, LLC

Represented By
Brett A Axelrod
Nicholas A Koffroth
Keith C Owens

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 25, 2021

Hearing Room 1545

10:00 AM

9:21-10412 Orcutt Rancho, LLC

Chapter 11

#0.00 MEDIATION HRG. BEFORE JUDGE BASON

ZoomGov Instructions for all matters on today's calendar:

Meeting ID: 161 158 4552

Password: 380573

Meeting URL: <https://cacb.zoomgov.com/j/1611584552>

Telephone: +1 669 254 5252 or +1 646 828 7666 or 833 568 8864 (Toll Free)

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Docket 0

Party Information

Debtor(s):

Orcutt Rancho, LLC

Represented By
Brett A Axelrod
Nicholas A Koffroth
Keith C Owens

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Wednesday, May 26, 2021

Hearing Room 1545

3:00 PM
2:00-00000

Chapter

#1.00 **ZoomGov Instructions for all matters on today's calendar:**

Meeting ID: 160 545 6867

Password: 466581

Meeting URL: <https://cacb.zoomgov.com/j/1605456867>

Telephone: +1 669 254 5252 or +1 646 828 7666 or 833 568 8864 (Toll Free)

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Docket 0

Tentative Ruling:

- NONE LISTED -

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Wednesday, May 26, 2021

Hearing Room 1545

3:30 PM

2:21-10956 LAX In-Flite Services, LLC

Chapter 11

#1.00 Cont'd hrg re: Motion of Debtor for Approval
of Sale of Substantially All of its Assets
fr. 05/11/21, 5/19/21

Docket 59

Tentative Ruling:

Tentative Ruling for 5/26/21:

Please see the tentative ruling for the status conference (Calendar No. 2, 5/26/21 at 3:30 p.m.).

Tentative Ruling for 5/19/21:

Please see the tentative ruling for the status conference (Calendar No. 2, 5/19/21 at 2:30 p.m.).

Party Information

Debtor(s):

LAX In-Flite Services, LLC

Represented By
Jeremy H Rothstein

Movant(s):

LAX In-Flite Services, LLC

Represented By
Jeremy H Rothstein
Jeremy H Rothstein

Trustee(s):

John-Patrick McGinnis Fritz (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Wednesday, May 26, 2021

Hearing Room 1545

3:30 PM

2:21-10956 LAX In-Flite Services, LLC

Chapter 11

#2.00 Cont'd Status Conference re: Chapter 11 Case
fr. 02/25/21, 03/02/21, 4/6/21, 4/27/21, 5/11/21,
5/19/21

Docket 1

Tentative Ruling:

Tentative Ruling for 5/26/21:

Appearances required.

(1) Current issues

(a) Debtor's motion to sell substantially all of its assets ("Sale Motion," dkt. 61-65, 67), Opposition of Ruth Gonzales, Braubert Andres, and Guillermo J. Lopez Gutierrez ("Gonzales et al.") (dkt. 77), SubchapterV Trustee's response (dkt. 83), Joinder of Samuel Pearce Trust ("Pearce") (dkt. 86), Debtor's reply to Gonzales et al. (dkt. 88), Debtor's reply to SubchapterV Trustee's response (dkt. 95), Schedules to APA (dkt. 99), Stipulation/Order continuing hearing (dkt. 102, 104)

This Court has received a communication with chambers that the parties may stipulate to a further continuance of this hearing. But no such stipulation or proposed order has been filed or lodged as of the preparation of this tentative ruling, so in an abundance of caution this Court is posting this tentative ruling to apprise the parties of the need to appear if they have not sought and obtained an order for a continuance.

On the merits, there is no additional tentative ruling beyond what this Court previously provided. The parties should be prepared to address the issues set forth in this Court's 5/19/21 tentative ruling (copied below).

(2) Dates/procedures. This case was filed on 2/5/21.

- (a) Bar date: 4/16/21 per General Order 20-01 (70 days after petition date in Subchapter V cases) (DO NOT SERVE any notice: one has already been sent, see dkt.16).
- (b) Procedures order: dkt.3 (timely served, dkt.9)
- (c) AmPlan/AmDisclosure Statement: TBD
- (d) Continued status conference: 6/15/21 at 1:00 p.m. No written

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Wednesday, May 26, 2021

Hearing Room 1545

3:30 PM

CONT...

LAX In-Flite Services, LLC
status report required.

Chapter 11

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 5/19/21:
Appearances required.

(1) Current issues

(a) Debtor's motion to sell substantially all of its assets ("Sale Motion," dkt. 61-65, 67), Opposition of Ruth Gonzales, Braubert Andres, and Guillermo J. Lopez Gutierrez ("Gonzales et al.") (dkt. 77), SubchapterV Trustee's response (dkt. 83), Joinder of Samuel Pearce Trust ("Pearce") (dkt. 86), Debtor's reply to Gonzales et al. (dkt. 88), Debtor's reply to SubchapterV Trustee's response (dkt. 95), Schedules to APA (dkt. 99)

The tentative ruling is that the following issues must be addressed before any sale can be approved. On the one hand, the tentative ruling is that Debtor has established sufficient justification for a quick sale of substantially all of its assets without overbids, instead of the delays and expenses of attempting to market the assets and hold an auction, which likely would result in *lower* net recoveries. Likewise, the tentative ruling is that Debtor has established sufficient justification for a sale instead of attempting to accomplish the same transaction through a chapter 11 plan, again because of the projected delays and costs of the latter proceeding (although those disadvantages might be exaggerated, given the speed and efficiency that are

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Wednesday, May 26, 2021

Hearing Room 1545

3:30 PM

CONT... LAX In-Flite Services, LLC

Chapter 11

possible in Subchapter V).

In addition, the tentative ruling is that any sale can be free and clear of liens and other interests under 11 U.S.C. 363(f). Although this Court is not persuaded that "applicable nonbankruptcy law" provides for a sale of substantially all assets to an insider free and clear of successor liability and other interests in the assets (section 363(f)(1)), or that a lack of objection is the same as "consent[]" (section 363(f)(2)) (dkt.59, pp.11:3-12:10), nevertheless section 363(f)(4) and (5) apply. Any purported lien or interest would qualify as "disputed" under section 363(f)(4), because of Debtor's lien searches, the lack of notice to Debtor of any other encumbrances or interests (other than Permitted Encumbrances), and the usual grounds for contesting any successor liability. Alternatively, this Court is persuaded that section 363(f)(5) applies because of the existence of "legal or equitable proceeding[s]" that could compel holders of any liens or other interests to accept a "money satisfaction," such as foreclosures and receiverships in which sales can be accomplished free and clear. As stated in the posted "Procedures of Judge Bason" (available at www.cacb.uscourts.gov) under "Common matters":

Regarding § 363(f)(5), the judge does not follow *Clear Channel Outdoor, Inc. v. Knupfer (In re PW, LLC)*, 391 B.R. 25, 40 (B.A.P. 9th Cir. 2008). He has ruled that a sale free and clear is permissible under § 363(f)(5) whenever the interest at issue is subject to monetary valuation. See *In re Trans World Airlines, Inc.*, 322 F.3d 283, 290-91 (3d Cir. 2003) ("*TWA*") (because employees' claims were "subject to monetary valuation," debtor's assets could be sold free and clear of successor liability for such claims under § 363(f)(5)). Alternatively, the judge has ruled that "cramdown" is among the types of legal or equitable proceeding within the statute, or that *Clear Channel* is distinguishable in most cases under the rationale of *In re Jolan*, 403 B.R. 866 (Bankr. W.D. Wash. 2009), because holders of interests can be compelled in numerous other types of legal or equitable proceedings to accept a money satisfaction (which might be \$-0- in the case of an interest that is entirely underwater). Those proceedings include a hypothetical foreclosure by one of the lienholders, or a receivership (which could be initiated at the behest of creditors or by the debtor itself). See Cal. Code Civ. Proc. ("*CCP*") §564(b)(9) (power to appoint receiver

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Wednesday, May 26, 2021

Hearing Room 1545

3:30 PM

CONT...

LAX In-Flite Services, LLC

Chapter 11

to sell property); CCP § 568.5 (receiver empowered to sell property as provided in CCP §§701.510 et seq.); CCP § 701.630 (extinguishment of liens); CCP § 701.680 (binding effect of sale). The judge respectfully disagrees with *In re Hassen Imports P'ship*, 502 B.R. 851, 860 et seq. (C.D. Cal. 2013) (hypothetical foreclosure sale did not qualify under section 363(f)(5)). See generally *In re Catalina Sea Ranch, LLC* (Case No. 2:19-bk-24467-NB), dkt. 122 (approving sale to insider, free and clear of successor liability).

On the other hand, (i) the insider nature of the proposed transaction requires greater scrutiny and (ii) unless the proposed sale is assured of generating funds sufficient to pay a meaningful dividend to nonpriority unsecured creditors, it does not appear appropriate to approve the proposed sale. This Court's reasoning is that, if a sale is a permissible substitute for a plan (under *Braniff, Lionel, Walter, Continental Airlines, Coastal Indus., Abbots Dairies*, etc. - see dkt.83, *passim and especially* pp.2:19-5:4 and 8:1-16:17), then this Court must consider whether the proposed transaction, if embodied in a proposed plan, would fail the tests for confirmation, and whether the proposed transaction would otherwise be contrary to the process and distribution scheme contemplated by the Bankruptcy Code. This approach is consistent with the definition of "cause" to dismiss or convert a case under 11 U.S.C. 1112: if no plan could be confirmed within any reasonable time frame, then this Court "shall" convert or dismiss the case. See 11 U.S.C. 1112(b)(4)(J).

The tentative ruling is that, if no meaningful dividend can be assured, then the proposed disposition of Debtor's assets would not satisfy the "fair and equitable" standard for confirmation of any plan, and it would be inappropriate to permit an "end run" around that standard, without even having an opportunity for creditors to vote (because there is no plan), while providing insiders with various benefits from the proposed transaction. In addition, there is insufficient assurance, on such shortened time, that the best interests of creditors test (11 U.S.C. 1129(a)(7)) would not favor a chapter 7 liquidation.

Conversion to chapter 7 would preserve the integrity of the system by enabling an independent investigation and assessment. Specifically, it is possible that a chapter 7 trustee: (w) could either obtain a better sale price

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Wednesday, May 26, 2021

Hearing Room 1545

3:30 PM

CONT... LAX In-Flite Services, LLC

Chapter 11

from the proposed buyer or competitors, (x) could investigate Debtor's vague assertions that unspecified "problems" (dkt. 59, p.3:20) transformed a business from one that "historically operated at a profit" (*id.*, p.3:19) into one that allegedly "would require significant capital investment before it could even break even" (*id.*, p.4:16-17), (y) could uncover claims against insiders, avoidance actions, or other sources of recoveries, and alternatively (z) could, at the very least, provide greater assurance that all "stones had been turned over" to explore whether the foregoing recoveries were possible.

In other words, the tentative ruling is that it is inappropriate to authorize a sale of substantially all assets, with the benefits and protections to insiders and the buyer of releases and cutting off potential successor liability and other claims, unless a meaningful dividend to nonpriority unsecured creditors can be assured. True, conversion or dismissal of this case might produce *smaller*, not greater, chances of any meaningful recoveries. But the tentative ruling is that the integrity of the system requires either the protections of a chapter 7 trustee or, alternatively, assurance of a meaningful distribution to nonpriority unsecured creditors. Absent the latter, the tentative ruling is that this Court cannot approve the proposed quick, no-voting, no-overbid sale to insiders with releases and a transfer of assets to them free and clear of successor liability.

(b) Plan (dkt. 89)

The tentative ruling is that, although Debtor's Plan is essentially a blank slate, the details of which Debtor proposes to supply after the (hoped for) approval of the Sale Motion, that is sufficient under the circumstances. The tentative ruling is not to take any further action with respect to the Plan at this time.

(2) Dates/procedures. This case was filed on 2/5/21.

(a) Bar date: 4/16/21 per General Order 20-01 (70 days after petition date in Subchapter V cases) (DO NOT SERVE any notice: one has already been sent, see dkt.16).

(b) Procedures order: dkt.3 (timely served, dkt.9)

(c) Plan/Disclosure Statement: See Section (1)(b) above.

(d) Continued status conference: 6/15/21 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Wednesday, May 26, 2021

Hearing Room 1545

3:30 PM

CONT... LAX In-Flite Services, LLC
conference).

Chapter 11

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

LAX In-Flite Services, LLC

Represented By
Jeremy H Rothstein

Trustee(s):

John-Patrick McGinnis Fritz (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 1, 2021

Hearing Room 1545

9:00 AM

2:00-00000

Chapter

#1.00 ZoomGov Instructions for all matters on today's calendar:

Meeting ID: 161 377 8946

Password: 757998

Meeting URL: <https://cacb.zoomgov.com/j/1613778946>

Telephone: +1 669 254 5252 or +1 646 828 7666 or 833 568 8864 (Toll Free)

Please connect at least 5 minutes before the start of your hearing, and wait with your microphone muted until your matter is called. You do not need to call Chambers for advance approval. ZoomGov appearances are free

Docket 0

Tentative Ruling:

- NONE LISTED -

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 1, 2021

Hearing Room 1545

10:00 AM

2:21-10531 Ida M Robertson

Chapter 13

#1.00 Hrg re: Motion for relief from stay [RP]

DEUTSCHE BANK NATIONAL TRUST CO
VS
DEBTOR

Docket 22

***** VACATED *** REASON: APO**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Ida M Robertson

Represented By
Arlene M Tokarz

Movant(s):

Deutsche Bank National Trust

Represented By
Robert P Zahradka

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 1, 2021

Hearing Room 1545

10:00 AM

2:18-17384 Howard Anthony Hines

Chapter 13

#2.00 Hrg re: Motion for relief from stay [RP]

FEDERAL HOME LOAN MORTGAGE CORP
vs
DEBTOR

Docket 42

Tentative Ruling:

Appearances are not required.

Grant as set forth below.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 1, 2021

Hearing Room 1545

10:00 AM

CONT... Howard Anthony Hines

Chapter 13

are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Howard Anthony Hines

Represented By
Scott Kosner

Movant(s):

Federal Home Loan Mortgage

Represented By
Arnold L Graff
Josephine E Salmon
Dane W Exnowski

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 1, 2021

Hearing Room 1545

10:00 AM

2:19-13245 Jason Richard Ashton

Chapter 13

#3.00 Hrg re: Motion for relief from stay [RP]

U.S. BANK TRUST NATIONAL ASSOC
vs
DEBTOR

Docket 47

Tentative Ruling:

Appearances are not required.

Grant as set forth below.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 1, 2021

Hearing Room 1545

10:00 AM

CONT... Jason Richard Ashton Chapter 13

are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Jason Richard Ashton

Represented By
Stephen L Burton

Movant(s):

U.S. Bank Trust National

Represented By
Erica T Loftis Pacheco

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 1, 2021

Hearing Room 1545

10:00 AM

2:19-24460 Kenneth Aaron Ray, Jr. and Joanne Marie Ray

Chapter 13

#4.00 Hrg re: Motion for relief from stay [RP]

NATIONSTAR MORTGAGE LLC
vs
DEBTOR

Docket 41

***** VACATED *** REASON: APO**

Tentative Ruling:

Appearances required.

There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 43).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Kenneth Aaron Ray Jr.

Represented By
Gregory M Shanfeld

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 1, 2021

Hearing Room 1545

10:00 AM

CONT... Kenneth Aaron Ray, Jr. and Joanne Marie Ray

Chapter 13

Joint Debtor(s):

Joanne Marie Ray

Represented By
Gregory M Shanfeld

Movant(s):

Nationstar Mortgage LLC D/B/A

Represented By
Angie M Marth
Jacky Wang
Jennifer C Wong

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 1, 2021

Hearing Room 1545

10:00 AM

2:20-10379 Kevin Robert Rheault

Chapter 13

#5.00 Hrg re: Motion for relief from stay [RP]

WELLS FARGO BANK, NA
vs
DEBTOR

Docket 37

Tentative Ruling:

Appearances are not required.

Grant as set forth below.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 1, 2021

Hearing Room 1545

10:00 AM

CONT... Kevin Robert Rheault Chapter 13

are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Kevin Robert Rheault

Represented By
John Asuncion

Movant(s):

Wells Fargo Bank, N.A.

Represented By
Sean C Ferry
Eric P Enciso

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 1, 2021

Hearing Room 1545

10:00 AM

2:21-13433 Porfirio Castillo

Chapter 13

#6.00 Hrg re: Motion for relief from stay [RP]

AJAX MORTGAGE LOAN TRUST 2021-B
vs
DEBTOR

Docket 5

Tentative Ruling:

Appearances are not required.

Grant as set forth below.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

The automatic stay does not apply

This case has been dismissed, which terminates the automatic stay. See 11 U.S.C. 349(b)(3) & 362(c).

In the alternative and in addition, the tentative ruling is to grant relief from the automatic stay as follows.

Note regarding mootness: Judge Bason's standard tentative ruling is as follows. For three reasons the above tentative ruling that there *is no stay* does not moot requests for relief from whatever stay might apply. First, such *alternative* rulings are appropriate because (i) the very nature of *tentative* rulings is that this Court could be persuaded to depart from any one of them, and (ii) a *final* ruling on any one issue could be reversed on appeal. Second, even if there is currently no stay, that could change - *e.g.*, if there is no stay because of dismissal of this bankruptcy case, such dismissal could be vacated and that might reimpose the stay even if there is a lack of adequate protection, or other grounds why the stay should not apply, and therefore the

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 1, 2021

Hearing Room 1545

10:00 AM

CONT... **Porfirio Castillo**

Chapter 13

movant will suffer cognizable harm unless the issues are addressed now (Judge Bason regularly vacates dismissals based on stipulations or other good cause). Third, if the motion includes any request for relief as to *past* acts (annulment) or *future* cases (*in rem* relief), those things are still at issue even if there is no *current* automatic stay. See *In re Aheong*, 276 B.R. 233 (9th Cir. BAP 2002). For all of these reasons, the tentative ruling is that it is appropriate to address the following issues.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(4).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Relief notwithstanding *future* bankruptcy cases.

Grant the following relief pursuant to 11 U.S.C. 362(d)(4) and the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is sufficient evidence and notice.

The tentative ruling is that Movant has established the existence of a "scheme" to delay, hinder, or defraud creditors involving multiple bankruptcy

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CONT... **Porfirio Castillo**

Chapter 13

cases by Debtor. As to Movant's alternative ground - Debtor's unauthorized transfer of the subject property - the tentative ruling is that because the transfer was 11 years ago (dkt. 5, Ex.D, at PDF p.67) - there is insufficient evidence that the transfer was part of the present scheme.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay. If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Porfirio Castillo

Pro Se

Movant(s):

Ajax Mortgage Loan Trust 2021-B,

Represented By
Renee M Parker

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:19-19773 Jose Armando Jimenez and Martha Laura Arreola De

Chapter 13

#7.00 Hrg re: Motion for relief from stay [RP]

SELECT PORTFOLIO SERVICING INC.
vs
DEBTOR

Docket 27

Tentative Ruling:

Appearances are not required.

Grant as set forth below.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

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CONT... Jose Armando Jimenez and Martha Laura Arreola De Chapter 13

are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Jose Armando Jimenez

Represented By
Lauren M Foley

Joint Debtor(s):

Martha Laura Arreola De Jimenez

Represented By
Lauren M Foley

Movant(s):

Select Portfolio Servicing Inc. as

Represented By
Josephine E Salmon

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 1545

10:00 AM

2:19-18527 Maria Mason Cabrera

Chapter 13

#8.00 Hrg re: Motion for relief from stay [PP]

VW CREDIT INC.
vs
DEBTOR

Docket 33

Tentative Ruling:

Appearances are not required.

Grant as set forth below.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

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CONT... Maria Mason Cabrera

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are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Maria Mason Cabrera

Represented By
David H Chung

Movant(s):

VW Credit Inc.

Represented By
Kirsten Martinez

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Los Angeles
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Hearing Room 1545

10:00 AM

2:21-11477 Daniel Lee George

Chapter 13

#9.00 Hrg re: Motion for relief from stay [PP]

ACAR LEASING LTD
vs
DEBTOR

Docket 19

Tentative Ruling:

Appearances are not required.

Grant as set forth below.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

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CONT... Daniel Lee George

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are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Daniel Lee George

Represented By
Hasmik Jasmine Papian

Movant(s):

ACAR Leasing LTD d/b/a GM

Represented By
Sheryl K Ith

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 1545

10:00 AM

2:20-20829 Gregory Steven Velarde and Ginalynn Velarde

Chapter 13

#10.00 Hrg re: Motion for relief from stay [PP]

EXETER FINANCE LLC
vs
DEBTOR

Docket 39

***** VACATED *** REASON: This matter is scheduled to be heard on
07/06/21 per parties' Stipulation (dkt. 45)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Gregory Steven Velarde

Represented By
D Justin Harelik

Joint Debtor(s):

Ginalynn Velarde

Represented By
D Justin Harelik

Movant(s):

Exeter Finance LLC

Represented By
Sheryl K Ith

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 1545

10:00 AM

2:21-12572 Christine Tu

Chapter 13

#11.00 Hrg re: Motion for relief from stay [NA]

INTELLILOAN, INC.
vs
DEBTOR

Docket 18

Tentative Ruling:

Grant in part, and overrule Debtor's opposition (dkt. 23), all as set forth below.
Appearances required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Background: Debtor states that she is "intending on paying Movant in full through her Chapter 13 plan." Opp. (dkt. 23), pp.2:14-16 *and* 4:12-14. But that plan provides only for the base amount of Movant's claim, not the additional dollar amounts that it now seeks. See Plan (dkt. 23, Ex.1, p.7) (listed as "Metropolitan Home Mortgage Inc").

(1) Limited relief. Modify and condition the automatic stay under 11 U.S.C. 362(d)(1) such that the movant may proceed in the nonbankruptcy forum to final judgment (including any appeals) in accordance with applicable nonbankruptcy law, subject to the following limitations (Judge Bason's standard limitations).

(a) No enforcement against property of the bankruptcy estate. The stay remains in effect with respect to enforcement of any judgment against property of the debtor's bankruptcy estate - any such property shall be distributed when and how provided by the Bankruptcy Code. Nevertheless, the movant is permitted to enforce its final judgment by (i) collecting upon any available insurance in accordance with applicable nonbankruptcy law or (ii)

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CONT... Christine Tu

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proceeding against the debtor as to any property that is not property of this bankruptcy estate. See, e.g., 11 U.S.C. 362(b)(2)(B) & 541(b)(7) (collection of domestic support obligations from ERISA qualified retirement plans).

(b) Claim allowance, priority, and discharge issues. Any claims arising from the nonbankruptcy litigation are subject to this Bankruptcy Court's jurisdiction regarding claim allowance and priority, and the existence and scope of any bankruptcy discharge.

(c) No relief in *other* bankruptcy cases. To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

In limiting the nonbankruptcy litigation as set forth above, this Bankruptcy Court emphasizes that it does not seek in any way to impinge on the authority of the Nonbankruptcy Courts presiding over the nonbankruptcy action. Rather, this Bankruptcy Court takes seriously its obligations, as a subordinate unit of the District Court, to manage this bankruptcy case. Those obligations include taking into consideration the interests of creditors (who are not parties to the underlying nonbankruptcy litigation), and preserving the bankruptcy estate by placing limits on any relief from the automatic stay that Congress has mandated (11 U.S.C. 362(a) & (d)).

Additional analysis:

The Bankruptcy Court "shall grant relief from the stay" upon a showing of "cause." 11 U.S.C. 362(d)(1). Such relief need not take the form of a complete termination of the automatic stay, but instead may include "modifying or conditioning such stay." *Id.*

"Cause" is determined on a case-by-case basis." *In re Tucson Estates, Inc.*, 912 F.2d 1162, 1166 (9th Cir.1990). In determining whether "cause" exists to grant relief from the automatic stay to allow a movant to pursue litigation in a non-bankruptcy forum, courts in the Ninth Circuit have examined the factors set forth in *In re Curtis*, 40 B.R. 795, 799–800 (Bankr. D. Utah 1984). See *In re Kronmeyer*, 405 B.R. 915 (9th Cir. BAP 2009); *In re Plumberex Specialty Prods., Inc.*, 311 B.R. 551, 559–60 (Bankr. C.D. Cal.2004). Those factors are: (1) Whether the relief will result in a partial or

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complete resolution of the issues; (2) The lack of any connection with or interference with the bankruptcy case; (3) Whether the foreign proceeding involves the debtor as a fiduciary; (4) Whether a specialized tribunal has been established to hear the particular cause of action and whether that tribunal has the expertise to hear such cases; (5) Whether the debtor's insurance carrier has assumed full financial responsibility for defending the litigation; (6) Whether the action essentially involves third parties, and the debtor functions only as a bailee or conduit for the goods or proceeds in question; (7) Whether the litigation in another forum would prejudice the interests of other creditors, the creditors' committee and other interested parties; (8) Whether the judgment claim arising from the foreign action is subject to equitable subordination under Section 510(c); (9) Whether movant's success in the foreign proceeding would result in a judicial lien avoidable by the debtor under Section 522(f); (10) The interests of judicial economy and the expeditious and economical determination of litigation for the parties; (11) Whether the foreign proceedings have progressed to the point where the parties are prepared for trial; and (12) The impact of the stay on the parties and the "balance of hurt." *Plumberex*, 311 B.R. at 559. "[W]hile the *Curtis* factors are widely used to determine the existence of 'cause,' not all of the factors are relevant in every case, nor is a court required to give each factor equal weight." *In re Landmark Fence Co., Inc.*, 2011 WL 6826253 at *4 (C.D. Cal. Dec. 9, 2011).

Based on the present record, the tentative ruling is that these factors weigh in favor of granting relief as set forth above. Most significantly:

As to the first *Curtis* factor (would relief result in complete resolution of the issues?), it appears that granting relief would result in complete resolution of the issues.

As to the second *Curtis* factor (connection with or interference with the bankruptcy case) and the seventh *Curtis* factor (prejudice to other creditors/interested parties), the tentative ruling is that granting relief will not interfere with this case and will be most expeditious in bringing the litigation to a conclusion and Debtor has not established that she or the estate would be prejudiced.

As to the fourth *Curtis* factor (whether a specialized tribunal has been established to hear the action) and the eleventh *Curtis* factor (whether the proceedings have progressed to the point where the parties are prepared for trial), the tentative ruling is that, although not a specialized tribunal, the State Court would be best suited to determine post-trial attorneys' fees issues due

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CONT... Christine Tu

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to its prior experience with and jurisdiction over this matter.

As to the tenth *Curtis* factor (interest of judicial economy) and the twelfth *Curtis* factor (the impact of the stay on the parties and the "balance of hurt"), the tentative ruling is that the matter is more properly determined by the State Court because it is best suited to determine the reasonableness of services performed and costs expended and Debtor has not responded with any argument to convince this Bankruptcy Court that the issues would be better dealt with in this Court.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Christine Tu

Represented By
Julie J Villalobos

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CONT... Christine Tu

Chapter 13

Movant(s):

Intelliloan, Inc.

Represented By
Caroline Djang

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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Los Angeles
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Hearing Room 1545

10:00 AM

2:20-11037 Jennifer Webb

Chapter 13

#12.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 5/11/21

U.S. BANK TRUST NATIONAL ASSOC
vs
DEBTOR

Docket 49

Tentative Ruling:

Tentative Ruling for 6/1/21:
Appearances required.

At the 5/11/21 hearing, this Court agreed to continue this matter to allow Debtor an opportunity to complete a loan modification application. There is no tentative ruling, but the parties should be prepared to address the status of the proposed loan modification.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 5/11/21:
Appearances required.

There is no tentative ruling, but the parties should be prepared to address (a)

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CONT... Jennifer Webb

Chapter 13

whether the alleged arrears have been brought current, (b) whether they will agree to the terms of an adequate protection order, and/or (c) whether Debtor and Movant will agree to a continuance for Debtor to finish attempting to obtain a loan modification (see Debtor's response, dkt. 51).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Jennifer Webb

Represented By
Sundee M Teeple

Movant(s):

U.S. Bank Trust National

Represented By
Erica T Loftis Pacheco

Trustee(s):

Kathy A Dockery (TR)

Pro Se

United States Bankruptcy Court
Central District of California
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Hearing Room 1545

10:00 AM

2:20-15990 Adrian T Bean

Chapter 13

#13.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 1/5/21, 3/2/21, 4/6/21, 5/4/21

MILL CITY MORTGAGE LOAN TRUST 2018-4
vs
DEBTOR

Docket 34

Tentative Ruling:

Tentative Ruling for 6/1/21:
Appearances required.

This matter has been continued multiple times since 1/5/21 to allow time for the parties to continue negotiating the terms of an adequate protection stipulation. There is no tentative ruling, but the parties should be prepared to provide an update on the status of those negotiations.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

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CONT... Adrian T Bean

Chapter 13

Debtor(s):

Adrian T Bean

Represented By
Christopher J Langley

Movant(s):

Mill City Mortgage Loan Trust 2018

Represented By
Sean C Ferry
Kristin A Zilberstein

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Hearing Room 1545

10:00 AM

2:19-15031 Desiree D Taylor

Chapter 13

#14.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 4/27/21

RUSHMORE LOAN MANAGEMENT SERVICES, LLC
VS
DEBTOR

Docket 32

***** VACATED *** REASON: APO**

Tentative Ruling:

Party Information

Debtor(s):

Desiree D Taylor

Represented By
Daniel King

Movant(s):

Rushmore Loan Management

Represented By
Erin M McCartney

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Hearing Room 1545

11:00 AM

2:19-14137 Zeta Graff

Chapter 7

#1.00 Hrg re: Chapter 7 Trustees Motion For Order: (1) Approving Overbid Procedures For Sale Of Residential Real Property; (2) Authorizing Sale Of Property Free And Clear Of Liens, Claims, And Interests To The Livshits And/Or Their Assignee, Or Other Bidder; (3) Approving Related Purchase Agreement For Property; (4) Determining That Buyer Is A Good Faith Purchaser; (5) Authorizing Payment Of Commission Of Broker, And Other Distribution Of Sale Proceeds; (6) Authorizing Trustee To Withhold And Remit Estimated State Income Taxes Resulting From Sale, If Any; (7) Waiving Stay Of Order Under Rule 6004(h) Of The Federal Rules Of Bankruptcy Procedure; And (8) Approving Related Compromise Of Claims With Pensco Trust Company

Docket 323

Tentative Ruling:

Appearances required.

Grant the sale motion, subject to overbids, and deny Debtor's request for a continuance (dkt. 329, 331), for the same reasons set forth in this Court' order (dkt. 333) setting the latter for hearing today.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

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CONT... Zeta Graff

Chapter 7

Party Information

Debtor(s):

Zeta Graff

Represented By
Damion Robinson

Trustee(s):

Sam S Leslie (TR)

Represented By
Elissa Miller
Asa S Hami

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Hearing Room 1545

11:00 AM

2:19-14137 Zeta Graff

Chapter 7

#1.10 Hrg re: Motion to Continue Hearing On Motion
for sale approval or permit expedited discovery

Docket 329

Tentative Ruling:

Please see the tentative ruling on the sale motion (calendar no. 1, 6/1/21 at 11:00 a.m.).

Party Information

Debtor(s):

Zeta Graff

Represented By
Damion Robinson

Trustee(s):

Sam S Leslie (TR)

Represented By
Elissa Miller
Asa S Hami

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 1, 2021

Hearing Room 1545

11:00 AM

2:19-17738 Carolyn Yvonne Morgan

Chapter 7

#2.00 Hrg re: Motion to Approve Sale of Non-Exempt
Equity in Property to Debtor

Docket 56

Tentative Ruling:

Appearances are not required.

Grant.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Carolyn Yvonne Morgan

Pro Se

Trustee(s):

Howard M Ehrenberg (TR)

Represented By
Steven Werth

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, June 1, 2021

Hearing Room 1545

11:00 AM

2:19-17738 Carolyn Yvonne Morgan

Chapter 7

#3.00 Cont'd hrg re: Motion for Order Disallowing Claim of Exemption
fr. 3/2/21

Docket 38

Tentative Ruling:

Tentative Ruling for 6/1/21:
Appearances are not required.

If this Court is persuaded to adopt its tentative ruling granting Trustee's Motion to Approve Sale of Non-Exempt Equity in Property to Debtor (dkt. 56) (see Calendar No. 2, 6/1/21 at 11:00 a.m.), the tentative ruling is to deny this motion as moot.

Proposed order: The Trustee is directed to lodge a proposed order via LOU within 7 days after the hearing and attach a copy of this tentative ruling, thereby adopting it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 3/2/21:

Please see the tentative ruling for the Trustee's motion to approve stipulation with the IRS and FTB (Calendar No. 5, 3/2/21 at 11:00 a.m.).

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Tuesday, June 1, 2021

Hearing Room 1545

11:00 AM

CONT... Carolyn Yvonne Morgan

Chapter 7

Party Information

Debtor(s):

Carolyn Yvonne Morgan

Pro Se

Trustee(s):

Howard M Ehrenberg (TR)

Represented By
Steven Werth

**United States Bankruptcy Court
Central District of California
Los Angeles
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Courtroom 1545 Calendar**

Tuesday, June 1, 2021

Hearing Room 1545

11:00 AM

2:19-12720 Andrea Pompelli Steyn

Chapter 7

Adv#: 2:19-01232 Steyn v. Karl S. Reinecker, An Accountancy Corporation et a

#4.00 Cont'd Status Conference re: Complaint for: 1. Damages for Violations Under the Truth and Lending Act; 2. Damages for Violations of the Home Ownership and Equity Protection Act; 3. Unfair Practices Act Under California Civil Code Section 17200; 4. Breach of Fiduciary Duty; and 5. Declaratory Relief fr. 9/24/19, 11/5/19, 1/28/20, 3/10/20, 9/15/20, 12/22/20

Docket 1

***** VACATED *** REASON: Order approving stipulation for voluntary dismissal of complaint entered 4/7/21 (see adv. dkt. 38).**

Tentative Ruling:

Party Information

Debtor(s):

Andrea Pompelli Steyn

Represented By
Benjamin Nachimson

Defendant(s):

Karl S. Reinecker, An Accountancy

Represented By
Lewis R Landau

Marquee Funding Group, Inc.

Represented By
Lewis R Landau

DOES 1-10

Pro Se

Plaintiff(s):

Andrea Pompelli Steyn

Represented By
Benjamin Nachimson

Trustee(s):

Howard M Ehrenberg (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, June 1, 2021

Hearing Room 1545

11:00 AM

2:20-18631 Cristobal Cuauhtemoc Murillo Valdez

Chapter 13

Adv#: 2:21-01002 Kass v. Murillo Valdez

#5.00 Cont'd status conference re: Complaint to determine nondischargeability of debt (sections 523); and objection to discharge (section 727) fr. 3/9/21

Docket 1

Tentative Ruling:

Tentative Ruling for 6/1/21:

Continue as set forth below, based on the parties' report that they are scheduled for mediation on 6/11/21. Appearances are not required on 6/1/21.

(A) Current issues

N/A

(B) Standard requirements

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority

[Resolved: no issues raised at prior status conferences, and see Status Report (adv.dkt.6)]

(2) Mediation

[See above.]

(3) Deadlines

This adversary proceeding has been pending since 1/7/21.

Joinder of parties/amendment of pleadings-deadline: TBD

Discovery cutoff (for completion of discovery): TBD

Expert(s) - deadline for reports: N/A

Expert(s) - discovery cutoff (if different from above): N/A

Dispositive motions to be heard no later than: TBD

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Tuesday, June 1, 2021

Hearing Room 1545

11:00 AM

CONT...

Cristobal Cuauhtemoc Murillo Valdez

Chapter 13

Joint Status Report: TBD

Continued status conference: 7/6/21 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers, including direct testimony by declaration unless excused: TBD (for the format of exhibits and other trial procedures, please see the Procedures of Judge Bason (posted at www.cacb.uscourts.gov) then search for "Trial Practice" BUT, at least during the COVID-19 shut down of the courtroom, also see the forms of order regarding video trials, posted on Judge Bason's portion of the Court's above-referenced web page)

Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 3/9/21:

Appearances required.

(A) Current issues

This Court has reviewed the parties' joint status report (adv.dkt. 6) and the other filed documents and records in this adversary proceeding and is not aware of any issues to raise *sua sponte* at this time.

(B) Standard requirements

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status

**United States Bankruptcy Court
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11:00 AM

CONT... Cristobal Cuauhtemoc Murillo Valdez
conference.)

Chapter 13

(1) Venue/jurisdiction/authority

The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this Bankruptcy Court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. *See generally Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). *See generally In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation

In the parties' joint status report (adv. dkt. 6), the parties have both indicated that they would like this matter sent to mediation. The tentative ruling is to set a **deadline of 3/23/21** for the parties to lodge a proposed mediation order (the parties are directed to use the time between now and that deadline to find a mutually agreeable mediator whose schedule can accommodate the needs of this matter; and if the parties cannot even agree on a mediator they may lodge separate orders and Judge Bason will chose among them, or issue his own order).

(3) Deadlines

This adversary proceeding has been pending since 1/7/21. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Joinder of parties/amendment of pleadings-deadline: 9/7/21

Discovery cutoff (for completion of discovery): 9/21/21

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11:00 AM

CONT...

Cristobal Cuauhtemoc Murillo Valdez

Chapter 13

Expert(s) - deadline for reports: N/A

Expert(s) - discovery cutoff (if different from above): N/A

Dispositive motions to be heard no later than: 11/9/21

Joint Status Report: 5/18/21

Continued status conference: 6/1/21 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers, including direct testimony by declaration unless excused: TBD (for the format of exhibits and other trial procedures, please see the Procedures of Judge Bason (posted at www.cacb.uscourts.gov) then search for "Trial Practice" BUT, at least during the COVID-19 shut down of the courtroom, also see the forms of order regarding video trials, posted on Judge Bason's portion of the Court's above-referenced web page)

Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Cristobal Cuauhtemoc Murillo

Represented By

Marc A Goldbach

Defendant(s):

Cristobal Cuauhtemoc Murillo

Pro Se

**United States Bankruptcy Court
Central District of California
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11:00 AM

CONT... Cristobal Cuauhtemoc Murillo Valdez

Chapter 13

Plaintiff(s):

Martin J Kass

Represented By
Dennis Kass
David Riera Ruiz

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, June 1, 2021

Hearing Room 1545

11:00 AM

2:20-19262 Khevin P DeVaughn

Chapter 13

Adv#: 2:20-01655 CYB, LLC, a California limited liability v. DeVaughn et al

#6.00 Cont'd status conference re: Complaint to declare debt non-dischargeable pursuant to 11 U.S.C. sections 523(a)(2, 4, 6) fr. 1/12/21

Docket 1

*** VACATED *** REASON: Order closing adversary proceeding entered 1/19/21 (see adv. dkt. 8).

Tentative Ruling:

Party Information

Debtor(s):

Khevin P DeVaughn

Represented By
Julie J Villalobos

Defendant(s):

Dimitra S DeVaughn

Pro Se

Khevin P DeVaughn

Pro Se

Comstock Brewing Company,a

Pro Se

Joint Debtor(s):

Dimitra S DeVaughn

Represented By
Julie J Villalobos

Plaintiff(s):

CYB, LLC, a California limited

Represented By
Lane M Nussbaum

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, June 1, 2021

Hearing Room 1545

1:00 PM

2:21-11352 Stern Holdings, Inc.

Chapter 11

#1.00 Hrg re: U.S. Trustee Motion to dismiss or convert case

Docket 28

***** VACATED *** REASON: Resolved by stipulation (dkt. 40) and order thereon**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Stern Holdings, Inc.

Represented By
Matthew Abbasi

Movant(s):

United States Trustee (LA)

Represented By
Dare Law

**United States Bankruptcy Court
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Tuesday, June 1, 2021

Hearing Room 1545

1:00 PM

2:21-11352 Stern Holdings, Inc.

Chapter 11

#2.00 Cont'd Status Conference re: Chapter 11 Case
fr. 3/23/21, 4/27/21

Docket 1

Tentative Ruling:

Tentative Ruling for 6/1/21:

Appearances required.

(1) Current issues

(a) Dismiss this case with a bar, and issue order to show cause ("OSC")

The tentative ruling, is to dismiss this case with a 180 day bar against being a debtor in bankruptcy due to "willful failure of the debtor to abide by orders of the court, or to appear before the court in proper prosecution of the case." 11 U.S.C. 109(g)(1). In addition, the tentative ruling is to issue an OSC directing Debtor's principal (Mr. Melamed) and Debtor's counsel to appear and show cause why they should not be subject to sanctions of \$200 each, for the following reasons.

(i) Failure to appear at the 4/27/21 status conference

This Court's tentative ruling posted in advance of the 4/27/21 status conference (copied below) directed Debtor to appear to address certain issues discussed therein, but Debtor failed to appear or otherwise notify Judge Bason's staff in advance of the hearing about any circumstances that might have prompted this Court to excuse Debtor's appearance.

(ii) Failure to comply with reporting requirements

Debtor has repeatedly been late in filing Monthly Operating Reports ("MORs"). See February MOR (dkt. 16, filed 8 days late) & March MOR (dkt. 32, filed 18 days late). As of the preparation of this tentative ruling, Debtor has not filed its April MOR (due 5/15/21), despite having entered into a stipulation to do so (resolving the motion of the United States Trustee ("UST") to dismiss this case, dkt. 40).

(iii) Failure to obtain valuation of property

Debtor's February MOR stated that valuation of its property is key to the success of its plan (dkt. 16, p. 8), but as of the preparation of this tentative

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CONT... Stern Holdings, Inc.

Chapter 11

ruling (over two months later) Debtor has not filed any motions to value its real properties. Additionally, Debtor's February and March MORs (dkt. 16 & 32) reflect that Debtor is not operating and Debtor continues to accrue administrative expenses without appearing to take any meaningful steps to reorganize its affairs.

(iv) Incorrect/untimely service of original and amended claims bar date orders

On 3/25/21 this Court issued an original bar date order (dkt. 18) which directed Debtor to serve a copy of the order by 3/30/21, but Debtor failed to serve that order at all. On 4/28/21 this Court issued an amended bar date order (dkt. 30) directing Debtor to "serve a copy of this Order (*not* the notice contemplated by LBR 3003-1)" on all parties in interest no later than 5/3/21 (dkt. 30, p.2, para. "(2)"). Notwithstanding those directions, Debtor appears to have served only the notice contemplated by LBR 3003-1 (see dkt. 35, 36) and even that service was 1 day later than the deadline this Court set.

(v) Conclusion

The foregoing lapses are not terribly serious, and there might (or might not) be good reasons for any one of those lapses (*e.g.*, illness or calendaring errors). But in combination those lapses place undue burdens on other parties in interest (and this Court), and deprive creditors and the UST of timely information that they need. Debtor has obtained the benefits of the automatic stay (11 U.S.C. 362(a)) and the other advantages of bankruptcy (*e.g.*, negotiating leverage, and opportunities for restructuring) without bearing the burdens. That is inappropriate and sanctionable.

The tentative ruling is to set the OSC for the same time as the continued status conference (see part "(2)" of this tentative ruling, below).

(2) Dates/procedures. This case was filed on 2/19/21.

(a) Amended Bar date: 6/30/21 (dkt. 30) (served 1 day late, dkt. 35, 36)

(b) Procedures order: dkt.3 (timely served, dkt.5)

(c) Plan/Disclosure Statement: See Section (1)(a), above.

(d) Continued status conference: 7/6/21 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

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CONT... Stern Holdings, Inc.

Chapter 11

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 4/27/21:

Appearances required.

(1) Current issues

(a) Service of bar date order

This Court's bar date order (dkt. 18) set a deadline of 3/30/21 for Debtor to serve all interested parties. As of the preparation of this tentative ruling, there is no proof of service reflecting that Debtor timely complied. Have creditors been served with the bar date order? If so, when did that occur and why has Debtor not filed a proof of service?

(b) Monthly Operating Reports ("MORs")

As of the preparation of this tentative ruling, Debtor has not filed its March MOR. Why not?

(2) Dates/procedures. This case was filed on 2/19/21.

(a) Bar date: 5/28/21 (dkt. 18, no proof of service on file)

(b) Procedures order: dkt.3 (timely served, dkt.5)

(c) Plan/Disclosure Statement: TBD

(d) Continued status conference: 6/1/21 at 1:00 p.m. *Brief* status report due 5/18/21.

*Warning: special procedures apply (see order setting initial status conference).

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CONT... Stern Holdings, Inc.

Chapter 11

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 3/23/21:

Appearances required by counsel for Debtor and by Debtor's principal.

(1) Current issues

(a) Untimely Status report

Debtor filed its status report (dkt. 15) four days late, on 3/13/21, without providing any explanation for the late filing. Debtor/counsel are cautioned that failure to timely comply with this Court's orders in future may result in adverse consequences.

(b) First-day motions

Debtor's status report states that a budget motion is not required by the presiding judge's procedures. Dkt. 15, p.3. That is wrong (see posted "Procedures of Judge Bason," available at www.cacb.uscourts.gov), but the tentative ruling is to excuse this requirement with a caution to counsel not to mis-state the applicable procedures.

If Debtor has not filed an employment application or any other typical so-called "first-day" motion(s) by the time of this hearing, the tentative ruling is to set a deadline of **3/30/21** for Debtor to file any outstanding motion(s) with a hearing concurrent with the continued status conference. Debtor is directed to address at the hearing what other motions are required or appropriate.

(c) Monthly Operating Reports ("MORs")

As of the preparation of this tentative ruling, Debtor has not filed its

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1:00 PM

CONT... Stern Holdings, Inc.
February MOR. Why not?

Chapter 11

(d) Only two creditors?

Debtor's creditor matrix includes only two creditors. Is that really true? How about the City of Fontana which, according to Debtor's Status Report (dkt.15), is considering citations for alleged "violations" of some sort? How about former employees, tax authorities, and other typical creditors?

(2) Dates/procedures. This case was filed on 2/19/21.

(a) Bar date: 5/28/21 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Procedures order: dkt.3 (timely served, dkt.5)

(c) Plan/Disclosure Statement: TBD

(d) Continued status conference: 4/27/21 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Stern Holdings, Inc.

Represented By
Matthew Abbasi

**United States Bankruptcy Court
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Tuesday, June 1, 2021

Hearing Room 1545

1:00 PM

2:20-14175 Tea Station Investment Inc.

Chapter 11

#3.00 Hrg re: Motion to Approve Post-Petition Financing
pursuant to 11 U.S.C. sections 363, 364

Docket 220

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 4,
6/1/21 at 1:00 p.m.).

Party Information

Debtor(s):

Tea Station Investment Inc.

Represented By
Leslie A Cohen

Movant(s):

Tea Station Investment Inc.

Represented By
Leslie A Cohen
Leslie A Cohen

Trustee(s):

John-Patrick McGinnis Fritz (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 1545

1:00 PM

2:20-14175 Tea Station Investment Inc.

Chapter 11

#4.00 Cont'd Status Conference re: Chapter 11 Case
fr. 7/28/20, 9/1/20, 9/15/20, 9/29/20, 12/22/20,
1/26/21, 3/9/21, 4/6/21, 04/27/21, 5/4/21

Docket 15

Tentative Ruling:

Tentative Ruling for 6/1/21:

Grant the DIP financing motion and continue the Status Conference as set forth below. Appearances are not required on 6/1/21.

(1) Current issues

(a) Debtor's Motion to Approve Post-Petition Financing (dkt. 220), Subchapter V Trustee's Response (dkt. 239), Debtor's Reply (dkt. 243)
Grant, based on the adjusted maturity date reflected in Debtor's reply.

Proposed order: Debtor is directed to lodge proposed orders via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1) (B).

(2) Dates/procedures. This case was filed on 5/4/20 and converted from chapter 7 to chapter 11 on 7/1/20 (dkt.17). The petition was amended to elect Subchapter V on 7/14/20 (dkt.27). On 9/4/20 this Court ordered joint administration with affiliated debtors (dkt.64).

- (a) Bar date: (i) Investment 9/9/20 (dkt. 40; timely served, dkt. 43);
Affiliated Debtors 11/10/20.
- (b) Procedures order: dkt.18 (timely served, dkt.20) (also timely served in each jointly administered case).
- (c) Plan (dkt. 137): hearing TBD.
- (d) Continued status conference: 6/15/21 at 1:00 p.m. No written status report required.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at

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CONT... Tea Station Investment Inc.

Chapter 11

www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Tea Station Investment Inc.

Represented By
Leslie A Cohen

Movant(s):

Tea Station Investment Inc.

Represented By
Leslie A Cohen
Leslie A Cohen

Trustee(s):

John-Patrick McGinnis Fritz (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 1, 2021

Hearing Room 1545

1:00 PM

2:20-20260 33 Quincy Avenue LLC

Chapter 11

#5.00 Hrg re: First and final application for Compensation
and reimbursement of expenses of Michael Jay Berger

Docket 69

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 6,
6/1/21 at 1:00 p.m.).

Party Information

Debtor(s):

33 Quincy Avenue LLC

Represented By
Michael Jay Berger

Movant(s):

33 Quincy Avenue LLC

Represented By
Michael Jay Berger

Trustee(s):

Susan K Seflin (TR)

Pro Se

**United States Bankruptcy Court
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Tuesday, June 1, 2021

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1:00 PM

2:20-20260 33 Quincy Avenue LLC

Chapter 11

#6.00 **[Case dismissed on 4/13/21]**

Cont'd status conference re: Chapter 11 case
fr. 12/1/20, 1/5/21, 1/26/21, 3/9/21, 3/23/21,
4/27/21

Docket 1

Tentative Ruling:

Tentative Ruling for 6/1/21:

Appearances are not required on 6/1/21.

(1) Current issues

(a) Final fee application of the Law Offices of Michael J. Berger (dkt. 69, 70), no opposition on file

Approve the Law Offices of Michael J. Berger's request for \$18,010.00 in fees and \$97.86 in costs, for a total award of \$18,107.86.

Proposed order: Applicant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates

This case was filed on 11/16/20 and dismissed on 4/13/21 (dkt. 67). The tentative ruling is to take this matter off-calendar.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative

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CONT... 33 Quincy Avenue LLC

Chapter 11

rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

33 Quincy Avenue LLC

Represented By
Michael Jay Berger

Trustee(s):

Susan K Seflin (TR)

Pro Se

**United States Bankruptcy Court
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Tuesday, June 1, 2021

Hearing Room 1545

1:00 PM

2:19-11809 Schaefer Ambulance Service, Inc

Chapter 11

#7.00 Hrg re: Motion For Order Of Contempt For Willful
Violation Of The Automatic Stay And Plan Injunctions

Docket 727

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 8,
6/1/21 at 1:00 p.m.).

Party Information

Debtor(s):

Schaefer Ambulance Service, Inc

Represented By
Craig G Margulies
Montserrat Morales

Movant(s):

Schaefer Ambulance Service, Inc

Represented By
Craig G Margulies
Craig G Margulies
Craig G Margulies
Montserrat Morales
Montserrat Morales
Montserrat Morales

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2:19-11809 Schaefer Ambulance Service, Inc

Chapter 11

#8.00 Cont'd Status Conference re: Post Confirmation
fr. 02/28/19, 03/12/19, 03/26/19, 04/09/19, 5/21/19,
05/21/19, 06/04/19, 6/18/19, 7/30/19; 08/06/19,
8/20/19, 9/24/19, 10/15/19, 11/5/19, 12/10/19, 12/17/19,
1/14/20, 1/28/20, 02/18/20, 3/10/20, 03/31/20, 4/21/20,
5/2/20, 7/28/20, 9/29/20, 11/10/20, 2/9/21, 5/11/21

Docket 1

Tentative Ruling:

**Tentative Ruling for 6/1/21:
Appearances required.**

(1) Current issues

(a) Motion of SAS Creditor Trust (the "Trust") for Sanctions for
Violation of the Automatic Stay ("Sanctions Motion," dkt. 727, 729),
Opposition (dkt. 731)

Bankruptcy cases would be unworkable if creditors could proceed with their litigation in nonbankruptcy courts in disregard of the automatic stay. Although this Bankruptcy Court has no wish to interfere with the State Courts' management of their own cases, this Bankruptcy Court must recognize that, under the Supremacy Clause and the Bankruptcy Code, State Court proceedings in violation of the automatic stay are void *ab initio* and creditors who proceed in violation of the stay are subject to sanctions. *In re Gruntz*, 202 F.3d 1074, 1082 (9th Cir. 2000) (*en banc*) ("actions taken in violation of the automatic stay are void. Further, '[j]udicial proceedings in violation of th[e] automatic stay are void.' . . . As the Supreme Court explained in *Kalb v. Feuerstein*, 308 U.S. 433, 443 (1940)], discussing the weaker predecessor statute to 11 U.S.C. § 362(a), '[b]ecause that State court had been deprived of all jurisdiction or power to proceed ... [all acts by creditor]-to the extent based upon the [State] court's actions-were all without authority of law.'" (citations omitted).

When Debtor and the Trust pointed this out, Mr. Logan Deaton ("Deaton") incorrectly asserted, through his counsel Maryann P. Gallagher, Esq. and her law offices (collectively, "Gallagher"), that "[f]iling a lawsuit is not

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CONT... **Schaefer Ambulance Service, Inc**

Chapter 11

a violation of an automatic stay, it is necessary to preserve the statute [of limitations] and to preserve the claim." Sanctions Motion (dkt. 727), Ex. 8 (at PDF p.93). No authority is cited for that proposition, and it is simply wrong.

Deaton/Gallagher received numerous notices of both the bankruptcy case and the Trust's (correct) assertions of violation of the automatic stay. Gallagher acknowledges "constant calls" to that effect (Sanctions Motion, dkt. 727, Ex. 8, at PDF p.93) and the Sanctions Motion papers include authenticated copies of numerous notices. See Sanctions Motion (dkt. 727), pp. 10-12 (Margulies Decl.) and Ex. 2 & 5-8, and pp. 87-89 (Morales Dec.) and Ex. A.

Nor are Deaton/Gallagher persuasive when they assert that the Trust lacks standing to seek damages because "they are a corporation and not an individual." Opp. (dkt. 731) p.2:19-20. True, the Trust's correspondence incorrectly cited 11 U.S.C. 362(k), which only applies to individuals; but the Trust's motion, and its notice of the bankruptcy case filed in the State Court, both correctly assert that a violation of the automatic stay and the injunctions issued by this Court in connection with the confirmed chapter 11 plan are grounds for issuance of an order to show cause ("OSC") why Deaton and Gallagher should not be held in contempt under 11 U.S.C. 105(a). See Sanctions Motion (dkt.727), pp. 3-9 *and* Ex.6, especially at p.80 (citing cases).

Nor are Deaton and Gallagher persuasive when they assert that the harm in this case - apparently consisting of the time and attorney fees involved in attempting to obtain Deaton/Gallagher's recognition of the automatic stay - was "self inflicted" because there was "no reason" to appear at status conferences in the State Court action. Opp. (dkt.731), p.2:23-26. It is preposterous to suggest that attorneys should simply fail to appear at status conferences: that would have risked prejudice to the bankruptcy or Trust estate, as well as possible sanctions against the non-appearing attorneys.

Based on all of the foregoing, Deaton/Gallagher appear only to be digging a deeper hole for themselves by raising many unpersuasive, if not frivolous, arguments. That said, they raise three arguments that, temporarily, appear to present obstacles to the Trust.

First, Deaton/Gallagher might be correct that, in addition to serving Gallagher, the Trust should have served Deaton. See Opp. (dkt.731), p.2:21-22. The issue is unclear because it is ambiguous in Gallagher's

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CONT... **Schaefer Ambulance Service, Inc**

Chapter 11

correspondence whether Gallagher is representing Deaton and accepting service for him for purposes of the bankruptcy case, and therefore arguably the Trust should have served Deaton individually. See *In re Villar*, 317 B.R. 88, 93 (9th Cir. BAP 2004) (counsel who had represented party in non-bankruptcy matters cannot be presumed to be agent for service of process regarding bankruptcy matters). Of course, normally communicating directly with a represented party is prohibited and can lead to sanctions, so ideally both Gallagher and the Trust should have clarified whether Gallagher was or was not representing Deaton for purposes of any defense to the Trust's assertions of a violation of the automatic stay. Gallagher is directed to clarify that issue at the hearing.

Second, Deaton/Gallagher are correct that the first step is for this Bankruptcy Court to determine whether or not to issue an OSC. See Opp., dkt.731, p.2:8-12. It would be premature for this Bankruptcy Court to proceed to sanctions at this time.

Third, it appears that, due to the time for delivery of U.S. mail to Gallagher's offices, it may be appropriate to grant additional time for Deaton/Gallagher to respond more fully. In addition to the normal delivery time, Gallagher asserts special delays due to COVID-19.

In sum, it appears that this hearing must be continued, with possible service of an additional notice to Deaton. But, before anyone incurs the expense of such additional proceedings, the tentative ruling is to order mandatory mediation, in the hope that the parties can resolve their differences more efficiently.

The tentative ruling is to set a **deadline of 6/11/21** for the parties to lodge proposed order(s) assigning this matter to mediation, provided that on or before that date Gallagher must confirm in papers filed with this Bankruptcy Court that Deaton is subjecting himself to the jurisdiction of this Bankruptcy Court without the need for additional notice of these proceedings to be served on him. If no such papers are filed, then the Trust may proceed with serving Deaton (and may add the expenses of doing so to its asserted damages). In any event, the tentative ruling is to continue the proceedings on this Motion to the same time as the continued post-confirmation status conference (see below).

(2) Deadlines/dates

This case was filed on 2/20/19, and Debtor's plan was confirmed on

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CONT... Schaefer Ambulance Service, Inc

Chapter 11

5/15/20 (dkt. 630). At the 2/9/21 hearing, this Court set a continued post-confirmation status conference for 7/20/21 at 1:00 p.m., with a *brief* status report due 7/6/21.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Schaefer Ambulance Service, Inc

Represented By
Craig G Margulies
Montserrat Morales

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1:00 PM

2:20-20909 VEEJ Corp

Chapter 11

#9.00 Hrg re: Motion to Approve Settlement Agreement and Mutual Release Between and Among (1) Debtor, (2) HFC Media Services Corporation, Inc., (3) Guarantor Vincent J. Carabello III, (4) The Moss Atkinson Family trust, and (5) Woodleigh Properties, LP

Docket 85

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 11, 6/1/21 at 1:00 p.m.).

Party Information

Debtor(s):

VEEJ Corp

Represented By
Jeffrey S Shinbrot

Movant(s):

VEEJ Corp

Represented By
Jeffrey S Shinbrot
Jeffrey S Shinbrot

Trustee(s):

Susan K Seflin (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 1545

1:00 PM

2:20-20909 VEEJ Corp

Chapter 11

#10.00 Hrg re: Motion for Order Dismissing Chapter 11 Case

Docket 86

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 11, 6/1/21 at 1:00 p.m.).

Party Information

Debtor(s):

VEEJ Corp

Represented By
Jeffrey S Shinbrot

Movant(s):

VEEJ Corp

Represented By
Jeffrey S Shinbrot
Jeffrey S Shinbrot

Trustee(s):

Susan K Seflin (TR)

Pro Se

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2:20-20909 VEEJ Corp

Chapter 11

#11.00 Cont'd Status Conference re: Chapter 11 Case
fr. 1/5/21, 1/26/21, 03/02/21, 3/23/21, 4/6/21,
5/4/21

Docket 1

Tentative Ruling:

Tentative Ruling for 6/1/21:

Appearances are not required on 6/1/21.

(1) Current issues

(a) Debtor's Motion to Approve Compromise (dkt. 85), no opposition on file

The tentative ruling is to grant the motion.

(b) Debtor's Motion to Dismiss (dkt. 86), no opposition on file

The tentative ruling is to grant the motion.

Proposed orders: Debtor is directed to lodge proposed orders on each of the foregoing motions via LOU within 7 days after the hearing date and attach a copy of this tentative ruling, thereby adopting it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 12/13/20. Debtor elected to proceed under Subchapter V.

(a) Bar date: 2/22/21 per General Order 20-01 (70 days after petition date in Subchapter V cases) (DO NOT SERVE any notice: one has already been sent, see dkt.23).

(b) Procedures order: dkt. 3 (timely served, dkt. 6).

(c) Plan (dkt. 68): TBD.

(d) Continued status conference: None pursuant to this Court's tentative ruling on Debtor's Motion to Dismiss above.

*Warning: special procedures apply (see order setting initial status conference).

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CONT... VEEJ Corp

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If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

VEEJ Corp

Represented By
Jeffrey S Shinbrot

Trustee(s):

Susan K Seflin (TR)

Pro Se

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2:20-14672 Truemetrics

Chapter 11

#12.00 Cont'd hrg re: U.S. Trustee's Motion to Dismiss or Convert Case
fr. 10/27/20, 11/10/20, 12/22/20, 2/9/21, 3/23/21

Docket 57

Tentative Ruling:

Tentative Ruling for 6/1/21:

Please see the tentative ruling for the status conference (Calendar No. 14,
6/1/21 at 1:00 p.m.).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Truemetrics

Represented By
Ryan A. Stubbe

Movant(s):

United States Trustee (LA)

Represented By
Dare Law

Trustee(s):

Gregory Kent Jones (TR)

Pro Se

**United States Bankruptcy Court
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2:20-14672 Truemetrics

Chapter 11

#13.00 Combined Hrg re: (A) Final Approval of Disclosure Statement and (B) Confirmation of Chapter 11 Plan fr. 11/10/20, 12/22/20, 2/9/21, 3/23/21

Docket 54

Tentative Ruling:

Tentative Ruling for 6/1/21:

Please see the tentative ruling for the status conference (Calendar No. 14, 6/1/21 at 1:00 p.m.).

Tentative Ruling for 3/23/21:

Please see the tentative ruling for the status conference (Calendar No. 18, 3/23/21 at 1:00 p.m.).

Tentative Ruling for 2/9/21:

Please see the tentative ruling for the status conference (Calendar No. 17, 2/9/21 at 1:00 p.m.).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Truemetrics

Represented By
Ryan A. Stubbe

Trustee(s):

Gregory Kent Jones (TR)

Pro Se

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2:20-14672 Truemetrics

Chapter 11

#14.00 Cont'd Status Conference re: Chapter 11 Case
fr. 6/2/20, 6/30/20, 8/4/20, 8/18/20, 9/15/20,
10/27/20, 11/10/20, 12/22/20, 2/9/21, 3/23/21

Docket 1

Tentative Ruling:

Tentative Ruling for 6/1/21:

Continue as set forth below. Appearances are not required on 6/1/21.

(1) Current issues

(a) United States Trustee's motion to dismiss, convert or appoint a chapter 11 trustee (dkt. 58, "MTD"), Debtor's opposition (dkt. 70), UST's reply (dkt. 71), continuing compliance order (dkt. 76)

The tentative ruling is to continue this hearing to be concurrent with the continued status conference (see below, section "(2)(a)").

But Debtor is reminded that this Court's continuing compliance order (dkt. 76) requires Debtor to *timely* file Monthly Operating Reports (*id.*, p.1:24-27) and this Court notes that Debtor filed its March MOR (dkt. 104) five days late and its April MOR (dkt. 105) two days late. The tentative ruling is to excuse the late filings in this instance, but Debtor is again cautioned that failure to timely file MORs in future may result in the UST filing a notice of delinquency and lodging a proposed order converting this case to chapter 7 (dkt. 76, pp.1:27-2:8).

(b) Amended Disclosure Statement (dkt. 81) and Plan (dkt. 80), JPMC objection (dkt. 82), U.S. Trustee objection (dkt.88), Amended Plan (dkt.89), Amended Disclosure Statement (dkt.90)

Based on the arguments and representations of the parties at the hearing on 12/22/20 and subsequent hearings, this Court was persuaded to continue this matter multiple times to see whether Debtor's performance is consistent with its current projections (or not). Debtor's Monthly Operating Reports ("MORs") for December 2020 - April 2021 (dkt. 93, 96, 100, 104, 105) show a consistent improvement in Debtor's financial performance and sufficient cash flow to satisfy this Court's concerns about the feasibility of

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Truemetrics

Chapter 11

moving forward with plan confirmation.

The tentative ruling is to set a deadline of **6/11/21** for Debtor to file a further amended Plan and amended Disclosure Statement to correct the issues highlighted in this Court's 12/22/20 Tentative Ruling (copied below) and lodge a proposed order, substantially in the form of the order posted on Judge Bason's portion of the Court's website (www.cacb.uscourts.gov), authorizing the service of a voting package and setting a combined hearing on final approval of the further amended Disclosure Statement and confirmation of the further amended Plan for the same time as the continued status conference (see below, section "(2)(a)").

(2) Deadlines/dates. This case was filed on 5/21/20.

- (a) Bar date: 7/30/20 per General Order 20-01 (70 days after petition date in Subchapter V cases) (DO NOT SERVE any notice: one has already been sent, see dkt. 12).
- (b) Procedures order: dkt.7 (served one day late, dkt. 14)
- (c) PlanDisclosure Statement*: See above.
- (d) Continued status conference: 8/3/21 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 3/23/21:

Continue [remainder intentionally omitted].

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CONT... Truemetrics

Chapter 11

Tentative Ruling for 2/9/21:

Continue [remainder intentionally omitted].

Tentative Ruling for 12/22/20:

Appearances required.

(1) Current issues

(a) United States Trustee's motion to dismiss, convert or appoint a chapter 11 trustee (dkt. 58, "MTD"), Debtor's opposition (dkt. 70), UST's reply (dkt. 71), continuing compliance order (dkt. 76)

There is no tentative ruling, but the parties should be prepared to address whether Debtor is in full compliance with all of its reporting and disclosure obligations, and has been maintaining regular communications with the Subchapter V Trustee and creditors.

(b) Amended Disclosure Statement (dkt. 81) and Plan (dkt. 80), JPMC objection (dkt. 82), U.S. Trustee objection (dkt.88), Amended Plan (dkt.89), Amended Disclosure Statement (dkt.90)

(i) Agreement(s)?

The parties are directed to address whether the Plan reflects agreements with creditors, and whether it includes all secured and unsecured claims that are allowed, or untimely claims that might (or might not) be allowed. See dkt.82.

(ii) Feasibility?

The good news is that Debtor appears to have corrected its reporting of recent financial history. *Compare* Disclosure Statement (dkt.90-2), Ex.D (summary of prepetition books & MORs), *with* U.S. Trustee's Objection (dkt.88), Ex.1 (summary of MORs). In addition, Debtor's historical profit & loss statements (Disclosure Statement, dkt.90-14, Attachment 8) show considerable improvement from the losses in 2018 and 2019 to a modest income in the first part of 2020. The declaration of one of Debtor's principals, Joel Russell (*id.*, dkt.90-15) also appears to show good reasons to anticipate continued improvement. Debtor projects net cash flow (before debt payments) starting at \$6,665.00 for 12/20 and increasing initially to \$7,706.25/mo. and eventually to over \$9,000.00/mo. See Disclosure Statement, dkt.90-11, Attachment 5.

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CONT...

Truemetrics

Chapter 11

But Debtor's projected cash flows appear to be unrealistic because at present Debtor is barely breaking even, after monthly interest-only payments of \$3,500/mo. to its principal secured creditor, First Home Bank (see, e.g., MOR for 11/20, dkt.86-2, p.2, and MOR for 10/20, dkt.83-5, p.2), whereas under the Plan Debtor would be paying \$5,055.73/mo. to First Home Bank, plus an additional \$519.61 to Chase and \$916.67 to the Subchapter V Trustee or General Unsecured Creditors. See Plan (dkt.89) Ex.A, Classes 2A, 2B & 4A. Based on this apparent gap between projections and recent history, the tentative ruling is to continue the hearing on any Plan and Disclosure Statement until Debtor begins to demonstrate performance consistent with its current projections (or not).

Meanwhile, the tentative ruling is to direct Debtor's counsel not to expend time (and attorney fees) revising the Disclosure Statement to correct the issues noted below, but to be prepared to do so if directed at a future Status Conference (if Debtor's financial performance demonstrates feasibility).

(iii) Corrections to Disclosure Statement (for future reference)

When and if this Court directs, Debtor must prepare a further amended Disclosure Statement correcting formatting issues, such as blank pages (see, e.g., Disclosure Statement (dkt.90-1), Ex.C1 through C3, at PDF pp.2-4) and miniature pages. See id., Ex.E (dkt.90-3). In addition, Ex.C to the Disclosure Statement uses a single, unchanging projection of monthly net income, whereas Debtor's actual projections are much more variable (mostly projected increases). The tentative ruling is that Ex.C need not show every monthly variation, but should reflect the average projections for each of the periods in the Plan.

Again, the tentative ruling is to direct Debtor's attorneys not to correct any of the above-referenced issues unless and until Debtor demonstrates sufficient cash flow for feasibility purposes.

(2) Deadlines/dates. This case was filed on 5/21/20.

- (a) Bar date: 7/30/20 per General Order 20-01 (70 days after petition date in Subchapter V cases) (DO NOT SERVE any notice: one has already been sent, see dkt. 12).
- (b) Procedures order: dkt.7 (served one day late, dkt. 14)
- (c) PlanDisclosure Statement*: See above.
- (d) Continued status conference: 1/26/21 at 1:00 p.m. No written

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Truemetrics

Chapter 11

status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Truemetrics

Represented By
Ryan A. Stubbe

Trustee(s):

Gregory Kent Jones (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 1, 2021

Hearing Room 1545

1:00 PM

2:20-11333 Edmund Lincoln Anderson

Chapter 11

#15.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 4/27/21, 5/11/21

US BANK TRUST NA
vs
DEBTOR

Docket 339

Tentative Ruling:

Tentative Ruling for 6/1/21:

Please see the tentative ruling for the status conference (Calendar No. 18, 6/1/21 at 1:00 p.m.).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Edmund Lincoln Anderson

Represented By
Stella A Havkin

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 1, 2021

Hearing Room 1545

1:00 PM

2:20-11333 Edmund Lincoln Anderson

Chapter 11

#16.00 Cont'd hrg re: Third Default on Stipulation for use of
Cash Collateral and Adequate Protection
(Internal Revenue Service)
fr. 3/23/21, 4/27/21, 5/11/21

Docket 315

Tentative Ruling:

Tentative Ruling for 6/1/21:

Please see the tentative ruling for the status conference (Calendar No. 18,
6/1/21 at 1:00 p.m.).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Edmund Lincoln Anderson

Represented By
Stella A Havkin

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 1, 2021

Hearing Room 1545

1:00 PM

2:20-11333 Edmund Lincoln Anderson

Chapter 11

#17.00 Hrg re: Motion for Order Appointing Case Trustee

Docket 354

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 18, 6/1/21 at 1:00 p.m.).

Party Information

Debtor(s):

Edmund Lincoln Anderson

Represented By
Stella A Havkin

Movant(s):

UNITED STATES OF AMERICA

Represented By
John D Ellis

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 1, 2021

Hearing Room 1545

1:00 PM

2:20-11333 Edmund Lincoln Anderson

Chapter 11

#18.00 Cont'd Status Conference re: Chapter 11 Case
fr. 3/3/20, 3/10/20, 4/7/20, 4/21/20, 6/2/20, 7/14/20,
7/28/20, 8/18/20, 9/1/20, 10/6/20, 10/27/20, 12/1/20,
1/5/21, 2/9/21, 03/02/21, 3/23/21, 4/27/21, 5/11/21

Docket 1

Tentative Ruling:

Tentative Ruling for 6/1/21:

Appearances required.

(1) Current issues

(a) Cash collateral: declaration re 3d default (the "Default Decl.,"
dkt.315), Debtor's response (dkt.317), order setting hearing (dkt.318)

There is no tentative ruling, but Debtor should be prepared to discuss what progress, if any, he has made towards marketing the properties for sale.

(b) U.S. Bank Trust NA as Trustee of the Tiki Series III Trust's
Declaration of Default Under Adequate Protection Order; Request for Entry of
Order Granting Relief from Stay (dkt. 339), Debtor's Opposition (dkt. 342),
order setting hearing (dkt. 343)

Same as above.

(c) Motion of United States of America on behalf of the Internal
Revenue Service ("IRS") to Appoint Trustee (dkt. 354), Debtor's Opposition
(dkt. 360), IRS's Reply (dkt. 361)

Grant, for the reasons stated in the IRS's motion and reply papers. Although this Court recognizes that appointment of a trustee involves expense and potential disruption of transactions that are currently in process, nevertheless the IRS had made a prima facie showing of "dishonesty," and even "fraud," under 11 U.S.C. 1104(a)(1) and there is no contrary evidence let alone a persuasive response.

Not only is the plain meaning of section 1104(a)(1) satisfied, but the spirit of the law is met as well. This Court cannot have any confidence that Debtor will not abscond with funds, or otherwise cause far greater harm to the

**United States Bankruptcy Court
Central District of California
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Tuesday, June 1, 2021

Hearing Room 1545

1:00 PM

CONT... **Edmund Lincoln Anderson**

Chapter 11

estate than the expense and possible disruption of turning over control to a chapter 11 trustee. In addition to the proof presented by the IRS, the history of this case deepens those concerns. Debtor appears to have commingled funds - this Court has addressed at multiple status conferences that many of Debtor's monthly operating reports failed to meet the reporting requirements of the United States Trustee ("UST") - and Debtor has defaulted multiple times on this Court's adequate protection orders. See dkt. 144, 198, 209, 245, 302, 310, 315, 339. This Court has already given Debtor significant leeway with regard to his conduct as Debtor under the Bankruptcy Code, and no further leeway is warranted pursuant to this Court's responsibility to preserve the integrity of the bankruptcy system.

The UST and counsel for the IRS and Debtor are directed to address at the hearing how best to coordinate the transition to a chapter 11 trustee.

(2) Deadlines/dates. This case was filed on 2/6/20.

(a) Bar date: 5/1/20 (dkt. 50; timely served, dkt. 55).

(b) Procedures order: dkt. 7 (timely served, dkt.8)

(c) Plan/Disclosure Statement (dkt. 251, 250)*: TBD.

(d) Continued status conference: 6/15/21 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 5/11/21:

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 1, 2021

Hearing Room 1545

1:00 PM

CONT... Edmund Lincoln Anderson

Chapter 11

Appearances required by counsel for the debtor.

(1) Current issues

(a) Cash collateral: declaration re 3d default (the "Default Decl.," dkt.315), Debtor's response (dkt.317), order setting hearing (dkt.318)

At the 4/27/21 hearing, this Court held that Debtor is required to prepare a budget, progress reports, and permit site inspections upon request. This Court also directed the parties to meet and confer to discuss reporting requirements for these disclosures and continued the hearing on this matter to resolve any disputes that may have arisen during the course of the meet and confer.

This Court notes that Debtor's latest Monthly Operating Reports (dkt. 348, for March 2021) are finally labeled to show which account relates to which property. But that appears to be "shutting the barn door after the horses have left," because the properties no longer generate income and there are almost no funds left.

In addition, this Court notes that (i) at PDF p.12 of the MOR it appears to report that home insurance expired months ago, car insurance is about to expire, and no payments have been made on either insurance for months, and (ii) PDF p.13 appears to be a random, misplaced page. Debtor is directed to address these issues at the hearing, as well as progress on selling the remaining properties of this bankruptcy estate.

There is no tentative ruling, but the parties should be prepared to discuss whether they have reached a consensus and/or whether there are any disputed issues for this Court to address.

(b) U.S. Bank Trust NA as Trustee of the Tiki Series III Trust's Declaration of Default Under Adequate Protection Order; Request for Entry of Order Granting Relief from Stay (dkt. 339), Debtor's Opposition (dkt. 342), order setting hearing (dkt. 343)

Same as above.

(2) Deadlines/dates. This case was filed on 2/6/20.

(a) Bar date: 5/1/20 (dkt. 50; timely served, dkt. 55).

(b) Procedures order: dkt. 7 (timely served, dkt.8)

(c) Plan/Disclosure Statement (dkt. 251, 250)*: TBD.

(d) Continued status conference: 6/1/21 at 2:00 p.m. No written status

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, June 1, 2021

Hearing Room 1545

1:00 PM

CONT...

Edmund Lincoln Anderson

Chapter 11

report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Edmund Lincoln Anderson

Represented By
Stella A Havkin

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 1, 2021

Hearing Room 1545

1:00 PM

2:19-16482 Unified Protective Services, Inc.

Chapter 11

#19.00 Cont'd Status Conference re: Post Confirmation
fr. 7/2/19, 08/06/19, 8/20/19, 10/29/19, 12/10/19,
12/17/19, 1/14/20, 2/4/20, 3/3/20, 6/2/20, 8/18/20,
9/29/20, 10/27/20, 03/02/21

Docket 1

***** VACATED *** REASON: Order granting Debtor's motion for entry of
final decree and order closing case entered 3/23/21 (dkt. 238)**

Tentative Ruling:

Party Information

Debtor(s):

Unified Protective Services, Inc.

Represented By
Michael Jay Berger

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 1, 2021

Hearing Room 1545

1:00 PM

2:19-20273 Alex Christopher Padilla

Chapter 11

#20.00 Cont'd Status Conference re: Post Confirmation
fr. 9/17/19, 10/1/19, 10/29/19, 12/10/19, 12/17/19,
1/28/20, 02/18/20, 3/3/20, 4/7/20, 5/5/20, 5/19/20,
6/30/20, 7/28/20, 9/1/20, 11/3/20, 11/10/20, 12/22/20,
1/26/21, 3/23/21

Docket 1

Tentative Ruling:

Tentative Ruling for 6/1/21:

Continue to 6/29/21 at 1:00 p.m. Appearances are not required on 6/1/21.

(1) Current issues

The Court has no issues to address *sua sponte* at this time.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Alex Christopher Padilla

Represented By
Eric Bensamochan

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 1, 2021

Hearing Room 1545

1:00 PM

CONT... Alex Christopher Padilla

Chapter 11

Trustee(s):

Gregory Kent Jones (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 1, 2021

Hearing Room 1545

1:00 PM

2:19-23303 Candelario Lora

Chapter 11

#21.00 Cont'd Status Conference re: Post Confirmation
fr. 12/17/19, 1/14/20, 02/18/20, 03/31/20, 4/21/20,
5/5/20, 6/30/20, 7/28/20, 9/1/20, 9/15/20, 9/29/20,
11/12/20, 1/5/21,03/02/21

Docket 1

Tentative Ruling:

Tentative Ruling for 6/1/21:

Continue to 9/7/21 at 1:00 p.m., *brief* status report due 8/24/21, all subject to being mooted if an order closing the case on an interim basis is issued before that time. Appearances are not required on 6/1/21.

(1) Current issues

This Court has no issues to raise *sua sponte*.

(2) Deadlines/dates

This case was filed on 11/11/19, and Debtors' plan was confirmed on 11/20/20 (dkt. 218).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, June 1, 2021

Hearing Room 1545

1:00 PM

CONT... Candelario Lora

Chapter 11

Debtor(s):

Candelario Lora

Represented By
Onyinye N Anyama

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, June 1, 2021

Hearing Room 1545

1:00 PM

2:20-12531 Custom Fabrications International, LLC

Chapter 11

#22.00 Status Conference re: Post Confirmation
fr. 3/17/20, 03/31/20, 5/12/20, 6/16/20, 7/14/20,
9/1/20, 10/27/20, 11/10/20, 12/8/20, 03/02/21

Docket 1

Tentative Ruling:

Tentative Ruling for 6/1/21:

Continue to 9/7/21 at 1:00 p.m., *brief* status report due 8/24/21, all subject to being mooted if a final decree/order closing the case is issued before that time. Appearances are not required on 6/1/21.

(1) Current issues

The Court has no issues to address *sua sponte* at this time.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Custom Fabrications International,

Represented By
Kevin Tang

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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CONT... Custom Fabrications International, LLC

Chapter 11

Trustee(s):

Andrew W. Levin (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, June 1, 2021

Hearing Room 1545

1:00 PM

2:20-18370 New Hillcrest Inc., a Cayman Island Corporation

Chapter 11

#23.00 Cont'd Status Conference re: Chapter 11 Case
fr. 10/6/20, 12/1/20, 1/26/21, 3/2/21, 4/6/21, 4/27/21

Docket 1

Tentative Ruling:

Tentative Ruling for 6/1/21:

Continue as set forth below. Appearances are not required on 6/1/21.

(1) Current issues

(a) Status Report (dkt. 85)

Debtor reports having closed escrow on its refinance, paid in full claim #2 filed by Mr. Tidhar, and that Debtor has no other creditors and anticipates filing a motion to dismiss this case.

(2) Deadlines/dates. This case was filed on 9/15/20.

(a) Bar date: 12/7/20 (dkt.23; timely served, dkt.25)

(b) Procedures order: dkt.4 (timely served, dkt.6, supplemented by dkt.21)

(c) Plan/Disclosure Statement*: N/A (cf. dkt 64).

(d) Continued status conference: 6/29/21 at 1:00 p.m. (to go off calendar if case is dismissed).

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative

**United States Bankruptcy Court
Central District of California
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Tuesday, June 1, 2021

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1:00 PM

CONT... New Hillcrest Inc., a Cayman Island Corporation

Chapter 11

rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 4/27/21:
Appearances required.

(1) Current issues

(a) Debtor's finance motion (dkt. 76, 77), oppositions due at the hearing

There is no tentative ruling. Debtor should be prepared to address (i) why no proof of service is on file (as of the preparation of this tentative ruling) and how this Court can determine whether notice and service were proper without any evidence of service, (ii) how Debtor proposes to fund the \$1,043,932.54 figure required to close the proposed transaction (see dkt. 76, at PDF p.17).

(2) Deadlines/dates. This case was filed on 9/15/20.

(a) Bar date: 12/7/20 (dkt.23; timely served, dkt.25)

(b) Procedures order: dkt.4 (timely served, dkt.6, supplemented by dkt.21)

(c) Plan/Disclosure Statement*: file by 5/13/21 (dkt 64). See the **revised** "Procedures of Judge Bason" (available at www.cacb.uscourts.gov) (search for "Chapter 11: Plan").

(d) Continued status conference: 6/1/21 at 1:00 p.m. *Brief* status report due 5/18/21.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the

**United States Bankruptcy Court
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Tuesday, June 1, 2021

Hearing Room 1545

1:00 PM

CONT... New Hillcrest Inc., a Cayman Island Corporation Chapter 11
first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

New Hillcrest Inc., a Cayman Island

Represented By
Brett Ramsaur

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, June 1, 2021

Hearing Room 1545

1:00 PM

2:21-10368 Mrudula Kothari

Chapter 11

#24.00 Cont'd Status Conference re: Chapter 11 Case
fr. 2/9/21, 03/02/21, 4/6/21, 4/27/21

Docket 1

Tentative Ruling:

Tentative Ruling for 6/1/21:

Appearance required by counsel for Debtor.

(1) Current issues

(a) Debtor's plan of reorganization (dkt. 58, "Plan")

Based on the discussion on the record at the hearing on 4/27/21, the tentative ruling is not to set a deadline for Debtor to file an amended Plan addressing the issues outlined at that hearing until it is clear whether Debtor will be able to obtain post-petition financing to fund repairs for the El Nido Property. Debtor is directed to address the status of any efforts to locate such financing.

(b) Debtor's motion to commence loan modification management program (LMM) (dkt. 64), Limited opposition of Royal Business Bank ("Bank") (dkt. 71), Debtor's reply (dkt. 73), notice of hearing (dkt. 73)

The tentative ruling is to overrule the limited opposition, without prejudice, and grant the motion, because Bank objects to the lack of specificity in what loan modification Debtor might seek, but Debtor's motion is only to *commence* the loan modification process and it will be up to the parties to negotiate possible loan modifications (if any) to which either would agree.

Proposed order: Debtor is directed to lodge a proposed order via LOU within 7 days after the hearing date, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

(c) Monthly operating reports ("MORs")

Debtor has projected positive cash flow but is incurring negative cash flow. See MORs (dkt. 63, 69). What is Debtor's explanation, and how can creditors and this Court expect positive cash flow in future?

(2) Dates/procedures. This case was filed on 1/19/21 .

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, June 1, 2021

Hearing Room 1545

1:00 PM

CONT...

Mrudula Kothari

Chapter 11

- (a) Bar date: 3/30/21 per General Order 20-01 (70 days after petition date in Subchapter V cases) (DO NOT SERVE any notice: one has already been sent, see dkt. 11).
 - (b) Procedures order: dkt. 8 (timely served, dkt. 12)
 - (c) AmPlan/AmDisclosure Statement: TBD
 - (d) Continued status conference: 7/20/21 at 1:00 p.m. *Brief* status report due 7/6/20.
- *Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 4/27/21:
Appearances required.

(1) Current issues

- (a) Debtor's plan of reorganization (dkt. 22, "Plan")
There is no tentative ruling. Appearances required.

- (b) Monthly Operating Reports ("MORs")

As of the preparation of this tentative ruling, Debtor has not filed her March MOR. Why not?

This Court also notes that Debtor has consistently filed her MORs late. See January MOR (dkt. 31, filed 4 days late); February MOR (dkt. 45, filed 5 days late); March MOR (not filed as of preparation of this tentative ruling). Debtor is cautioned that failure to timely satisfy her reporting obligations

**United States Bankruptcy Court
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1:00 PM

CONT...

Mrudula Kothari

Chapter 11

creates more work for this Court and parties in interest. In future this Court may impose sanctions or other adverse consequences if Debtor continues to file untimely MORs.

(2) Dates/procedures. This case was filed on 1/19/21 .

- (a) Bar date: 3/30/21 per General Order 20-01 (70 days after petition date in Subchapter V cases) (DO NOT SERVE any notice: one has already been sent, see dkt. 11).
- (b) Procedures order: dkt. 8 (timely served, dkt. 12)
- (c) Plan/Disclosure Statement: see above
- (d) Continued status conference: 6/1/21 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 4/6/21:

Continue as set forth below. Appearances are not required on 4/6/21.

(1) Current issues

This Court has no issues to raise *sua sponte* at this time.

(2) Dates/procedures. This case was filed on 1/19/21 .

- (a) Bar date: 3/30/21 per General Order 20-01 (70 days after petition date in Subchapter V cases) (DO NOT SERVE any notice: one

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Hearing Room 1545

1:00 PM

CONT...

Mrudula Kothari

Chapter 11

has already been sent, see dkt. 11).

(b) Procedures order: dkt. 8 (timely served, dkt. 12)

(c) Plan/Disclosure Statement: file by 4/16/21 (DO NOT SERVE - except on the U.S. Trustee). See the **revised** "Procedures of Judge Bason" (available at www.cacb.uscourts.gov) (search for "Chapter 11: Plan").

(d) Continued status conference: 4/27/21 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Mrudula Kothari

Represented By
Stella A Havkin

Trustee(s):

Susan K Seflin (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 1, 2021

Hearing Room 1545

1:00 PM

2:21-10368 Mrudula Kothari

Chapter 11

#24.10 Hrg re: Motion to Commence Loan Modification Management Program

Docket 64

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 24, 6/1/21 at 1:00 p.m.).

Party Information

Debtor(s):

Mrudula Kothari

Represented By
Stella A Havkin

Trustee(s):

Susan K Seflin (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 1, 2021

Hearing Room 1545

1:00 PM

2:18-24302 GL Master Inc

Chapter 7

#25.00 Second Cont'd Evidentiary Hrg re: Order to Show Cause re: Civil Contempt and Directing (i) Debtor, (ii) Freda Wang, (iii) Thomas Polis, (iv) Lynn Chao, (v) The Law Offices of Lynn Chao to Appear and Show Cause Why This Court Should Not Find Them in Contempt and Impose Sanctions fr. 8/19/20, 9/17/20, 11/3/20, 12/1/20, 12/22/20, 1/5/21, 1/26/21, 4/27/21, 5/11/21

Docket 173

***** VACATED *** REASON: This matter is scheduled to be heard on 06/15/2021 at 2:00 p.m. per order entered 05/14/2021 (dkt. 302)**

Tentative Ruling:

Party Information

Debtor(s):

GL Master Inc

Represented By
Thomas J Polis

Trustee(s):

Edward M Wolkowitz (TR)

Represented By
Juliet Y Oh

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 1, 2021

Hearing Room 1545

1:00 PM

2:20-16719 Diana Mitra Saidian

Chapter 13

#26.00 Cont'd hrg re: Objection to Claim No. 5-2 Filed by
Investment Management Company LLC
fr. 11/19/20, 12/17/20, 1/21/21, 3/18/21, 04/22/21,
5/20/21

Docket 53

Tentative Ruling:

Tentative Ruling for 6/1/21:

Please see the tentative ruling on the settlement motion (calendar no. 27,
6/1/21 at 1:00 p.m.).

Tentative Ruling for 5/20/21:

Please see the tentative ruling on the settlement motion (calendar no. 12,
5/20/21 at 8:30 a.m.).

Party Information

Debtor(s):

Diana Mitra Saidian

Represented By
Raymond H. Aver

Trustee(s):

Kathy A Dockery (TR)

Represented By
Fari B Nejadpour

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 1, 2021

Hearing Room 1545

1:00 PM

2:20-16719 Diana Mitra Saidian

Chapter 13

#27.00 Cont'd hrg re: Motion For Order Approving And Authorities (A) Compromise Of Controversy With Investment Management Company, LLC; And (B) Postpetition Financing fr. 5/20/21

Docket 113

Tentative Ruling:

**Tentative Ruling for 6/1/21:
Appearances required.**

At the 5/20/21 hearing, this Court granted a brief continuance to allow the parties to address this Court's concerns as set forth in the 5/20/21 tentative ruling and as stated on the record. There is no tentative ruling, but the parties should be prepared to discuss what progress, if any, they have made towards either (i) modifying their agreements to address this Court's concerns or (ii) mooted this Court's concerns (except the fourth stated concern, which is not enough by itself to deny the parties' motions) by being able to close a refinance or other transaction before or concurrent with this Court's approval of their proposed settlement.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 5/20/21:

**United States Bankruptcy Court
Central District of California
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Tuesday, June 1, 2021

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1:00 PM

CONT...

Diana Mitra Saidian

Chapter 13

The tentative ruling is that the settlement/finance motion and associated relief from the automatic stay cannot be approved in its present form, for the reasons set forth below. Appearances required.

Debtor proposes to satisfy the claim of Investment Management Company, LLC ("IMC") in a somewhat reduced dollar amount on or before 11/24/21, failing which IMC may foreclose without reducing its claim. Meanwhile Debtor and her non-debtor husband would stipulate to *in rem* relief and dismissal of this bankruptcy case with a bar to refiling a future bankruptcy case. See Settlement/Refi. Motion (dkt.113), Ex.1&2, at PDF pp. 24-43.

According to the record before this Court, there is substantial equity in the subject property, so any bar against refiling and any *in rem* relief could prejudice creditors other than IMC. First, the parties' papers do not allege facts or assert arguments that the predicates for dismissal with a bar or for *in rem* relief are satisfied under 11 U.S.C. 109(g)(1) or 362(d)(4), or any other authority, and there is a general public policy against enforcing contractual commitments not to file a future bankruptcy case. The parties papers do not analyze those issues at all.

Second, the parties' papers do not assert that the non-debtor husband's creditors have received notice. This Court has due process concerns about granting the requested relief without notice to them.

Third, such relief would appear to prejudice future creditors of Debtor, or her non-debtor husband, or both, and there is no way to know who those creditors might be.

Fourth, this Court has concerns with adding this Court's implicit imprimatur regarding the proposed new financing, which appears to have inconsistent provisions about whether the new loan will be a business or personal loan, and has onerous regular and default interest rates. See dkt.113, at PDF p.46 (12% rate, 22% default rate, compounded monthly); and dkt.113 at PDF p.50 (Certificate of Business Purpose Loan).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, June 1, 2021

Hearing Room 1545

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CONT... Diana Mitra Saidian

Chapter 13

appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Diana Mitra Saidian

Represented By
Raymond H. Aver

Movant(s):

Diana Mitra Saidian

Represented By
Raymond H. Aver

Trustee(s):

Kathy A Dockery (TR)

Represented By
Fari B Nejadpour

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

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Hearing Room 1545

1:00 PM

2:20-16719 Diana Mitra Saidian

Chapter 13

#28.00 Cont'd hrg re: Motion for Entry of Order Approving
Stipulation Granting Relief from the Automatic Stay
fr. 5/20/21

Docket 105

Tentative Ruling:

Tentative Ruling for 6/1/21:

Please see the tentative ruling on the settlement motion (calendar no. 27,
6/1/21 at 1:00 p.m.).

Tentative Ruling for 5/20/21:

Please see the tentative ruling on the settlement motion (calendar no. 12,
5/20/21 at 8:30 a.m.).

Party Information

Debtor(s):

Diana Mitra Saidian

Represented By
Raymond H. Aver

Movant(s):

Investment Management Co., LLC

Represented By
Allan D Sarver

Trustee(s):

Kathy A Dockery (TR)

Represented By
Fari B Nejadpour

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 1, 2021

Hearing Room 1545

2:00 PM

2:21-12324 Christopher Jamaal Lovejoy

Chapter 7

#1.00 Hrg re: Motion to Dismiss Chapter 7 Case
Pursuant to 11 U.S.C. Section 707(a)

Docket 10

Tentative Ruling:

Appearances required.

Key documents reviewed (in addition to motion papers): Debtor's opposition (dkt. 16), Don King Productions, Inc.'s ("Don King") reply papers (dkt. 17, 18, 19) and Objection to Debtor's declaration (dkt. 20)

The tentative ruling is to order the parties to mediation and set a **deadline of 6/8/21** for the parties to lodge order(s) assigning this matter to mediation.

The tentative ruling is to also set a **continued hearing for 8/3/21 at 2:00 p.m.**, with additional deadlines between now and then for the parties to cure and/or address various issues, as set forth below, in the event that their mediation is unsuccessful.

(a) **7/9/21** for Don King to re-serve its papers, with a new notice, via US mail. *Reasons:* Don King's proof of service (dkt. 10, pdf p. 14) does not reflect service on all creditors as required by Rule 2002(a)(4) (Fed. R. Bankr. P.). The tentative ruling is that Don King must file and serve an amended notice stating that the deadline is **7/20/21** for any parties in interest not previously served with the motion papers to file and serve an opposition, and that the deadline is **7/27/21** for Don King to file and serve reply papers.

(b) **7/13/21** for Debtor to file and serve an amended declaration that is in proper form (the tentative ruling is to sustain Don King's objection to the admissibility of Debtor's declaration, dkt. 16, pp.8-9).

(c) **7/13/21** for Debtor to file and serve supplemental declaration(s) responding to Don King's assertions that he has undisclosed sources of income from, among other things, an alleged 5/15/21 boxing match and paid sponsorships or that his social media posts and that his social media posts and spending habits allegedly to contradict the information reported in Debtor's Schedules and Statement of Financial Affairs ("SOFA").

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CONT...

Christopher Jamaal Lovejoy

Chapter 7

(d) 7/13/21 for Don King to file and serve supplemental declaration(s) establishing that it provided Debtor with an invoice or other communication to put Debtor on notice that it was owed \$28,000 prior to the petition date and present admissible evidence in support of its assertions that Debtor has participated in other bouts and has the potential to earn substantial sums of money.

(e) 7/20/21 for the parties to file and serve briefs responding to the other parties' supplemental pleadings, and

(f) 7/27/21 for the parties to file and serve reply papers.

Notwithstanding the foregoing, the parties may seek this Court's approval to modify the foregoing deadlines and/or seek a further continuance of the hearing for good cause shown, including progress in mediation.

Proposed order: Debtor is directed to lodge a proposed order via LOU within 7 days after the hearing date incorporating the foregoing dates and deadlines, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Christopher Jamaal Lovejoy

Represented By
Varand Gourjian

Trustee(s):

Timothy Yoo (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, June 1, 2021

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2:00 PM

CONT... Christopher Jamaal Lovejoy

Chapter 7

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, June 1, 2021

Hearing Room 1545

2:00 PM

2:18-12429 Dana Hollister

Chapter 11

#2.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 10/1/19, 11/12/19, 11/21/19, 01/14/20, 03/03/20,
04/07/20, 5/19/20, 7/14/20, 7/28/20, 8/4/20, 9/15/20,
10/27/20, 01/26/21, 4/27/21

BOBS, LLC
vs
DEBTOR

Docket 936

Tentative Ruling:

Tentative Ruling for 6/1/21:

Please see the tentative ruling for the status conference (Calendar No. 3, 6/1/21 at 2:00 p.m.).

[INTERIM TENTATIVE RULINGS OMITTED]

Tentative Ruling for 10/1/19:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (1) a proposed timeline, and sequence, for discovery and court proceedings regarding the value of the Paramour and whether Bobs, LLC's second loan is secured or unsecured, and (2) whether this Court should set an evidentiary hearing regarding the value of the Paramour, or whether other procedures are appropriate, such as using a third party appraiser, selected jointly by the parties' own appraisers, who would be either appointed as this Court's own expert witness to assist this Court in assessing the parties' appraisals and testimony of their appraisers, or, alternatively, whose determination would be binding. See Motion (dkt.936), Opposition papers (dkt.948, 949, 950, 951, 952), and Reply papers (dkt.958, 959).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at

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CONT... Dana Hollister

Chapter 11

www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Dana Hollister

Represented By
David A Tilem
Mark A Kressel
Alan M Insul

Movant(s):

Bobs, LLC

Represented By
David I Brownstein
Gerrick Warrington

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, June 1, 2021

Hearing Room 1545

2:00 PM

2:18-12429 Dana Hollister

Chapter 11

#3.00 Cont'd Status Conference re: Chapter 11 Case
fr. 3/9/18, 3/20/18, 3/21/18, 4/17/18, 5/3/18, 5/7/18,
6/12/18, 6/22/18, 7/16/18, 8/3/18, 9/4/18, 11/6/18,
01/15/19, 1/29/19, 2/26/19, 3/26/19, 4/16/19;
04/29/19, 05/21/19, 5/28/19, 6/18/19, 7/2/19; 08/06/19,
10/15/19, 11/12/19, 11/21/19, 01/14/20, 3/3/20, 3/10/20,
04/07/20, 5/19/20, 6/16/20, 6/30/20, 7/14/20, 7/28/20,
8/4/20, 09/15/20, 10/27/20, 12/08/20, 1/21/21, 02/25/21, 3/23/21
4/27/21

Docket 1

Tentative Ruling:

Tentative Ruling for 6/1/21:

Appearances required.

(1) Current issues

(a) Motion of Bobs LLC ("Bobs") For Relief From The Automatic Stay ("R/S Motion," dkt. 936), Prior Responses by various parties in interest (dkt. 948-952), Bobs' Prior Reply (dkt. 958, 959), Joinder in Prior Response (dkt. 1005), Bobs' Supplement (dkt. 1413), Supp. Response of Dean G. Rallis, Jr., Court Appointed Agent ("Agent") (dkt. 1415), Agent's Evidentiary Objections (dkt. 1416), Supp. Joinder of The Bird Nest, LLC ("Bird") and the Roman Catholic Archbishop of Los Angeles and the California Institute of the Sisters of the Most Holy and Immaculate Heart of the Blessed Virgin Mary (collectively, "Church") (dkt. 1417)

Bobs asserts that its debt secured by the Paramour, combined the first lien debt, total near \$17 million, and that the Paramour is worth no more than \$14.5 million based on an appraisal obtained from Chris Adelman. Dkt. 1413, pp. 4:8–9, 6:24–26. In response, the Agent and others note the age and other alleged deficiencies in the Adelman appraisal and point to several appraisals which value the Paramour at anywhere from \$36 million to \$48 million. Dkt. 1415, p. 5:3–9.

The tentative ruling is that the age of the Adelman appraisal goes to its weight, not admissibility, and in any event the appraisals on which the Agent

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2:00 PM

CONT...

Dana Hollister

Chapter 11

and others rely have also grown somewhat stale during the continuances of this matter. Accordingly, the tentative ruling is to continue this matter for all parties to obtain revised appraisals.

The Agent requests that, if this Court does not deny the R/S Motion at this point, it set an evidentiary hearing to value the Paramour. Likewise, Bobs requests that this Court first hold an evidentiary hearing to determine the value of the Paramour and defer until later other issues such as the dollar amount of its secured claim.

The tentative ruling is that it is appropriate to set an evidentiary hearing at this time. It also appears to be appropriate to defer any determination of the dollar amount of Bobs' claim that is secured by the Paramour, because the difference in the secured claim amount is dwarfed by the range of valuations, so it appears to be most efficient to determine the value first. As to the evidentiary objections (dkt. 952, 1416) to Mr. Shy's declarations, and Bobs' response (dkt. 959), the tentative ruling is to overrule the first of the objections addressed by Bobs (dkt.959, p.2) but sustain the remaining objections, without prejudice to presenting alternative evidence on the issues. As for the junior lienholders' standing, the parties are directed to address that issue at the hearing.

Regarding the procedures for a future evidentiary hearing, the tentative ruling is that it is appropriate to balance the fact that, on the one hand, (i) matters involving relief from the automatic stay generally are "summary" proceedings, and this Bankruptcy Court has already noted that vast sums have been spent on litigation in this case, and (ii) on the other hand, this particular litigation appears to warrant the expenditure of reasonable additional funds because so much appears to hinge on the outcome of the R/S Motion. In other words, the tentative ruling is to establish procedures that are neither too "summary" nor in the nature of "scorched earth" litigation that would deplete the bankruptcy estate. *See generally In re Johnson*, 756 F.2d 738, 740 (9th Cir.1985) (relief from stay matters are properly "handled in a summary fashion") (overruled on other grounds by *Travelers Cas. & Sur. Co. v. Pac. Gas & Elec. Co.*, 549 U.S. 443 (2007)). *See also* Mem. Dec. Denying Debtor's Financing Motion (dkt. 1382), p. 19:12-15 (administrative expenses allegedly approaching \$4 million).

With the foregoing parameters in mind, the parties are directed to address how much time they will need to revise appraisals, depose appraisers, conduct any other relevant discovery, prepare for an evidentiary

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CONT...

Dana Hollister

Chapter 11

hearing on valuation, and conduct their examination at an evidentiary hearing. See Mem. Dec. Denying Debtor's Financing Motion (dkt. 1382), n. 7 at p. 15:18-22 ("Bobs could file a motion for relief from the automatic stay" but that could take substantial time because "in all likelihood there would have to be discovery and a trial on valuation").

(2) Deadlines/dates. This case was filed on 3/6/18.

(a) Bar date: 8/24/18 (dkt. 367, timely served per dkt. 383)

(b) Plan/Disclosure Statement: TBD. See the **revised** "Procedures of Judge Bason" (available at www.cacb.uscourts.gov) (search for "Chapter 11: Plan").

(c) Continued status conference: 6/15/21 at 2:00 p.m. to be held contemporaneous with the hearing on the related adversary proceeding. No written status report required.

(d) Limited Notice: A "Core Service List" has been established (see dkt.97, p.3:4-17, dkt.195), as modified by any updates (contact Debtor for latest list).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED (for principal issues, see dkt. 238, 239, 528, 547, 557, 1330, 1382-83, 1410)]

Party Information

Debtor(s):

Dana Hollister

Represented By

**United States Bankruptcy Court
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Judge Neil Bason, Presiding
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2:00 PM

CONT...

Dana Hollister

David A Tilem
Mark A Kressel
Alan M Insul

Chapter 11

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, June 1, 2021

Hearing Room 1545

2:00 PM

2:19-24048 110 West Properties, LLC

Chapter 11

#4.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 5/11/21

FAIRVIEW LOANS IV, LLC
vs
DEBTOR

Docket 231

Tentative Ruling:

Tentative Ruling for 6/1/21:

Please see the tentative ruling for the status conference (Calendar No. 8,
6/1/21 at 2:00 p.m.).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

110 West Properties, LLC

Represented By
Gregory K Jones
Jeffrey Huron
Danielle N Rushing
Jong-Ju Chang

Movant(s):

Fairview Loans IV, LLC

Represented By
Aron M Oliner

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, June 1, 2021

Hearing Room 1545

2:00 PM

2:19-24048 110 West Properties, LLC

Chapter 11

#5.00 Cont'd hrg re: Motion for Entry of an Order Authorizing the Debtor to Retain and Compensate Professionals Utilized by the Debtor in Ordinary Course of Business
fr. 1/26/21, 2/9/21, 03/02/21, 4/6/21, 4/27/21, 5/11/21

Docket 186

Tentative Ruling:

Tentative Ruling for 6/1/21:

Please see the tentative ruling for the status conference (Calendar No. 8, 6/1/21 at 2:00 p.m.).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

110 West Properties, LLC

Represented By
Gregory K Jones
Jeffrey Huron
Danielle N Rushing

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 1, 2021

Hearing Room 1545

2:00 PM

2:19-24048 110 West Properties, LLC

Chapter 11

#6.00 Cont'd hrg re: Motion to Dismiss Chapter 11 Case
fr. 10/27/20, 12/8/20, 1/26/21, 2/9/21, 03/02/21, 4/6/21,
4/27/21, 5/11/21

Docket 145

Tentative Ruling:

Tentative Ruling for 6/1/21:

Please see the tentative ruling for the status conference (Calendar No. 8,
6/1/21 at 2:00 p.m.).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

110 West Properties, LLC

Represented By
Gregory K Jones
Jeffrey Huron
Danielle N Rushing

Movant(s):

Dos Cabezas Properties, LLC

Represented By
Robert P Goe

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, June 1, 2021

Hearing Room 1545

2:00 PM

2:19-24048 110 West Properties, LLC

Chapter 11

#7.00 Cont'd combined hrg re: Approval of Disclosure Statement and Chapter 11 Confirmation of Plan fr. 5/11/21

Docket 227

Tentative Ruling:

Tentative Ruling for 6/1/21:

Please see the tentative ruling for the status conference (Calendar No. 8, 6/1/21 at 2:00 p.m.).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

110 West Properties, LLC

Represented By
Gregory K Jones
Jeffrey Huron
Danielle N Rushing

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, June 1, 2021

Hearing Room 1545

2:00 PM

2:19-24048 110 West Properties, LLC

Chapter 11

#8.00 Cont'd Status Conference re: Chapter 11 Case
fr. 12/17/19, 1/28/20, 02/18/20, 3/31/20, 4/21/20,
5/12/20, 6/2/20, 6/30/20, 8/18/20, 9/15/20, 10/27/20,
12/8/20, 1/26/21, 2/9/21, 03/02/21, 4/6/21, 4/27/21,
5/11/21

Docket 5

Tentative Ruling:

Tentative Ruling for 6/1/21:

Appearances required.

(1) Current issues

(a) Debtor's disclosure statement (dkt. 228) and plan of reorganization (dkt. 227), Tarzana Crossing's objection (dkt. 234), Plan support statement of Criscione-Meyer Entitlement and Dos Cabezas (dkt. 236), Debtor's reply (dkt. 237), Redlined plan and disclosure statement (dkt. 239), Order conditionally approving disclosure statement and setting plan confirmation hearing and related deadlines (dkt. 241, "DS/Plan Scheduling Order"), Amended plan (dkt. 243), Amended disclosure statement (dkt. 244), proof of service of voting package (dkt. 249), Opposition of Tarzana to Amended Disclosure Statement and Amended Plan (dkt. 263, 264), Ballot Summary (dkt. 266), Debtor's reply papers (dkt. 267, 268)

The tentative ruling is to overrule Tarzana's objections in substantial part, but direct the parties to appear to address the following confirmation issues:

(i) Proposed treatment of Class 4 (Prior Buyer Releasors)

The Amended Plan proposes the following treatment for Class 4 "Prior Buyer Releasors" (which this Court understands to include Dos Cabezas Properties, LLC, Criscione-Meyer Entitlement, LLC, Thirteen Twenty, LLC and 1330 TIC Group, a tenancy in common group, Michael Criscione, Michael Meyer, and Third Day Nipoma, LLC):

On the Effective Date, the Mutual Release of the Purchase Agreement provided by both the Debtor and the Prior Buyer Releasors shall be immediately effective. Pursuant to the

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Mutual Release, an exhibit the Purchase Agreement, the Debtor and the Prior Buyer Releasors are to provide mutual releases. The Derivative Causes of Action filed by Tarzana on behalf of the Debtor in the Tarzana AP and the State Court Action are to be dismissed with prejudice. The Prior Buyer Releasors shall dismiss the Prior Buyers AP and the Cross-Complaint with prejudice and shall withdraw or dismiss with prejudice, as appropriate, the Dos Cabezas/Criscione Proof of Claim, among other Prior Buyers Adverse Bankruptcy Actions, to the extent they remain pending. *This treatment of Class 4 holders shall be effective regardless of whether the sale of the Property pursuant to the Purchase Agreement closes* [dkt. 243, p.15, Section 2.4(d) (emphasis added)].

The tentative ruling is that Debtor has not cited any authority establishing that its proposal to release the estate's claims against the Prior Buyers, *regardless* of whether the sale closes and without providing some alternative form of consideration, satisfies the fair and equitable requirements of 11 U.S.C. 1129(b).

Similarly, Debtor should be prepared to provide authority establishing that its proposal to dismiss claims asserted against RU, LLC, for no consideration, satisfies the fair and equitable requirements of 11 U.S.C. 1129(b). See dkt. 243, pp. 9:2-6 & 15, Section 2.4(d).

(iii) Exculpation and limitation of liability clause

Section 524(e) provides that "discharge of a debt of the debtor does not affect the liability of any other entity on, or the property of any other entity for, such debt." 11 U.S.C. 524(e).

Debtor's Amended Plan provides:

Notwithstanding any other provision of the Plan, no holder of a Claim or Interest, no other party in interest, none of their respective agents, employees, representatives, financial advisors, attorneys, or affiliates, and no successors or assigns of the foregoing, shall have any right of action whether in law or equity, whether for breach of contract, statute, or tort claim, against the Debtor or its Estate, assets, properties, or interests in property, for any act or omission in connection with, relating to, or arising out of, this Case, the pursuit of Confirmation of the

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Plan, consummation of the Plan, or the administration of the Plan or the property to be distributed under the Plan. [Dkt. 243, p. 26, Article X, Section 10.2]

The tentative ruling is that Debtor's exculpation clause is overly broad under the standard set forth in the Court of Appeals for the Ninth Circuit's *Blixseth*, 961 F.3d 1074 (9th Cir. 2020) decision, because it purports to release parties from *any* tortious claim without regard to whether parties being released engaged in any willful misconduct or gross negligence. See *id.*, at 1082 (approving the breadth of exculpation clause because it "applies only to negligence claims; it does not release parties 'from willful misconduct or gross negligence'").

(b) Fairview's motion for relief from stay (dkt. 231), Debtor's opposition (dkt. 238), Fairview's reply (dkt. 242), Order setting forth Court's tentative ruling (dkt. 241, "4/29/21 Order"), Debtor's supplemental declaration in support of opposition papers (dkt. 253)

If this Court is persuaded to confirm Debtor's Amended Plan, the tentative ruling is to take this matter off-calendar without prejudice to Fairview resetting it if it is not paid in full within 30 days after entry of the confirmation order.

(c) Motion of Doz Cabezas Properties, LLC ("Dos Cabezas") to dismiss case (dkt. 145, 166, the "MTD"), Debtor's opposition (dkt. 168), Dos Cabezas's reply (173), Dos Cabezas's supplemental papers (dkt. 179, 182), Debtor's supplemental papers (dkt. 181, 183), Debtor's status report (dkt. 188), Doz Cabezas's supplemental papers (dkt. 193), Debtor's supplemental response (dkt. 197)

If this Court is persuaded to confirm the Debtor's Amended Plan, the tentative ruling is to deny this motion as moot. Alternatively, the tentative ruling is to continue this matter concurrent with the continued status conference (see Section (2)(d) below).

(d) Debtor's applications to retain and compensate ordinary course professionals (dkt. 186, "Ordinary Course Application"), Opposition of Dos Cabezas (dkt. 194), Debtor's reply (dkt. 198), Stipulation to withdraw Dos Cabezas' opposition and order thereon (dkt. 247, 248), Stipulation to continue hearing (dkt.269)

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Continue to 6/29/21 at 1:00 p.m., to provide Debtor time to address the issues raised in this Court's 4/27/21 tentative ruling (copied below).

(e) Tarzana Crossing v. 110 West Properties, LLC et al. (2:20-ap-01012-NB)

If this Court is persuaded to confirm the Debtor's Amended Plan, the tentative ruling is that this proceeding will be moot (unless this Court is persuaded not to confirm the Plan, in which case the parties should be prepared to address whether this Court should grant Tarzana's motion to remand this proceeding back to the State Court at this time).

(2) Deadlines/dates. This case was filed on 11/29/19.

(a) Bar date: 3/31/20 (dkt.46, timely served, dkt.49).

(b) Procedures order: dkt. 2 (timely served, dkt. 8, 9)

(c) AmPlan (dkt. 243)/AmDisclosure Statement (dkt. 244)*: See above.

(d) Post-Confirmation status conference: *If* this Court is persuaded to confirm Debtor's Amended Plan, 9/28/21 at 1:00 p.m., with a status report due 14 days in advance or, alternatively, 6/29/21 at 2:00 p.m.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 5/11/21:
Appearances required.

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(1) Current issues

(a) Debtor's disclosure statement (dkt. 228) and plan of reorganization (dkt. 227), Tarzana Crossing's objection (dkt. 234), Plan support statement of Criscione-Meyer Entitlement and Dos Cabezas (dkt. 236), Debtor's reply (dkt. 237), Redlined plan and disclosure statement (dkt. 239), Order conditionally approving disclosure statement and setting plan confirmation hearing and related deadlines (dkt. 241, "DS/Plan Scheduling Order"), Amended plan (dkt. 243), Amended disclosure statement (dkt. 244), proof of service of voting package (dkt. 249)

The tentative ruling is to continue this matter concurrent with the continued status conference (see Section (2)(d) below), pursuant to this Court's DS/Plan Scheduling Order. If any party wishes to address any discovery dispute(s) they are directed to follow the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov).

(b) Fairview's motion for relief from stay (dkt. 231), Debtor's opposition (dkt. 238), Fairview's reply (dkt. 242), Order setting forth Court's tentative ruling (dkt. 241, "4/29/21 Order"), Debtor's supplemental declaration in support of opposition papers (dkt. 253)

As set forth in this Court's 4/29/21 Order, the tentative ruling is that Fairview must be granted some form of relief, and that the appropriate relief at this stage is to order adequate protection, pursuant to 11 U.S.C. 361, 362(d), and 363(e), to require Debtor to proceed very quickly to attempt to obtain confirmation or its Plan.

Proposed order: Fairview is directed to lodge a proposed order via LOU within 7 days after the hearing date and attach a copy of this Court's tentative ruling, thereby adopting it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1) (B).

(c) Motion of Doz Cabezas Properties, LLC ("Dos Cabezas") to dismiss case (dkt. 145, 166, the "MTD"), Debtor's opposition (dkt. 168), Dos Cabezas's reply (173), Dos Cabezas's supplemental papers (dkt. 179, 182), Debtor's supplemental papers (dkt. 181, 183), Debtor's status report (dkt. 188), Doz Cabezas's supplemental papers (dkt. 193), Debtor's supplemental

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The tentative ruling is to continue this matter concurrent with the continued status conference (see Section (2)(d) below).

(d) Debtor's applications to retain and compensate ordinary course professionals (dkt. 186, "Ordinary Course Application"), Opposition of Dos Cabezas (dkt. 194), Debtor's reply (dkt. 198), Stipulation to withdraw Dos Cabezas' opposition and order thereon (dkt. 247, 248)

Based on the arguments and representations at the hearing on 4/27/21 this matter was continued to this date. Debtor should be prepared to address the issues raised in this Court's 4/27/21 tentative ruling (copied below).

(e) Tarzana Crossing v. 110 West Properties, LLC et al. (2:20-ap-01012-NB)

The tentative ruling is to continue this matter concurrent with the continued status conference (see Section (2)(d) below).

(2) Deadlines/dates. This case was filed on 11/29/19.

- (a) Bar date: 3/31/20 (dkt.46, timely served, dkt.49).
- (b) Procedures order: dkt. 2 (timely served, dkt. 8, 9)
- (c) Plan (dkt. 243)/Disclosure Statement (dkt. 244)*: See above.
- (d) Continued status conference: 6/1/21 at 2:00 p.m., concurrent with other matters. No status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer

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Tentative Ruling for 4/2721:
Appearances required.

(1) Current issues

(a) Debtor's disclosure statement (dkt. 228) and plan of reorganization (dkt. 227), Tarzana Crossing's objection (dkt. 234)

There is no tentative ruling. Appearances required.

(b) Motion of Doz Cabezas Properties, LLC ("Dos Cabezas") to dismiss case (dkt. 145, 166, the "MTD"), Debtor's opposition (dkt. 168), Dos Cabezas's reply (173), Dos Cabezas's supplemental papers (dkt. 179, 182), Debtor's supplemental papers (dkt. 181, 183), Debtor's status report (dkt. 188), Doz Cabezas's supplemental papers (dkt. 193), Debtor's supplemental response (dkt. 197)

There is no tentative ruling. The outcome of this motion may depend in part on this Court's rulings on Debtor's Disclosure Statement and Plan.

(c) Debtor's applications to retain and compensate ordinary course professionals (dkt. 186, "Ordinary Course Application"), and employ BBG, Inc., as its appraiser (dkt. 187, "Appraisal Application") (together, the "Applications"), Omnibus opposition of Dos Cabezas (dkt. 194), Debtor's reply (dkt. 198)

The parties should be prepared to address the following issues:

(i) Service

Debtor's proofs of service filed in support of the Applications (dkt. 186, at pdf p.112-114 and dkt. 187, at pdf pp.23-25, 29-31, 36-38) do not state whether the Applications were served on the twenty largest unsecured creditors as required by LBR 2014-1(a)(2). Debtor should be prepared to address whether those creditors have been served.

(ii) Court approval is required before a "professional" can be employed or paid (11 U.S.C. 327(a))

Section 327(a) states: "Except as otherwise provided in this section, the trustee, with the court's approval, may employ one or more attorneys,

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accountants, appraisers, auctioneers, or other professional persons, that do not hold or represent an interest adverse to the estate, and that are disinterested persons, to represent or assist the trustee in carrying out the trustee's duties under this title." 11 U.S.C. 327(a).

Under section 327(a) and Rule 2014 (Fed. R. Bankr. P.), chapter 11 debtors are required to obtain court approval before a "professional person" may be employed and paid by the estate. Whether a particular party is a professional person depends upon the nature of services to be performed; the more central the services are to the administration of the estate, the more likely those services will be determined to be professional in nature. *In re That's Entm't Mktg. Grp., Inc.*, 168 B.R. 226, 230 (N.D. Cal. 1994).

(iii) BBG Inc ("BBG")

The tentative ruling is that BBG is a "professional" whose employment must be approved by this Court for the following reasons. First, section 327(a) specifically names "appraisers" as the type of professional that is typically required to be employed by the Court and Debtor does not appear to dispute that characterization. See dkt. 187.

Second, Debtor represents that it intends to sell its real properties, which Debtor concedes "are the primary (if not the only) source of recovery for creditors" and needs an appraiser to gauge the potential value of the properties against any potential offers received. Dkt. 187, pdf pp.2:27-3:8; see *also* Ex.2, pdf p.13 (describing the intended use of BBG's appraisal as being for "internal purposes related to Chapter 11 restructuring"). The tentative ruling is that such services are central to the administration of Debtor's estate and BBG's employment must be authorized by this Court under 327(a).

(iv) Hammonds & Frey and Hunter & Company - generally

In support of its contention that Hammonds & Frey and Hunter & Company are "ordinary course professionals," Debtor cites a string of cases articulating tests of varying degrees for determining whether a particular party is a "professional person" requiring employment under 327(a). Dkt. 186, p.10:3-24 (citing *Matter of D'lites*, 108 B.R. 352, 355 (Bankr. N.D. Ga. 1989) ("professional persons" under section 327(a) does not include parties "who provide services that are necessary whether the petition was filed or not"); *In re Fretheim*, 102 B.R. 298, 299 (Bankr. D. Conn. 1989) (employee's function

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must be related to the administration of the estate and employee must be given discretion and autonomy in some part of administration of the estate to qualify as professional); *In re Johns-Manville Corp.*, 60 B.R. 612, 621 (Bankr. S.D.N.Y. 1986) (professional must play a part in negotiating a plan, adjusting the debtor/creditor relationship, dispose of or acquire assets, or perform any duties required of a debtor by the Bankruptcy Code); *In re Napoleon*, 233 B.R. 910, 913 (Bankr. D. N.J. 1999) (party must play an integral role in the administration of the bankruptcy case or assist the trustee with important activities, such as obtaining post-petition financing, negotiating creditor claims or formulating plan of reorganization); *In re Riker Industries, Inc.*, 122 B.R. 964, 973 (Bankr. N.D. Ohio 1990) (concluding that whether a person is a professional turns on the degree of autonomy within which the person will operate and the degree of supervision or direction required by the trustee); *In re Sieling Associates Ltd. Partnership*, 128 B.R. 721, 723 (Bankr. E.D. Va. 1991) (services that have only a tangential relationship to the administration of the estate are not professional in nature).

Debtor argues that Hammonds & Frey and Hunter & Company are not "professionals" requiring formal retention under section 327(a) because the services they provide are not specific to the chapter 11 case or debtor's restructuring efforts. Dkt. 186, p.6:9-10. Rather, Debtor states that both companies have been employed by it for ten or more years (dkt. 186, p.6:14-19), that Hammonds & Frey "provides accounting services, including bookkeeping services, tax services and preparation of financial documents" (*id.*, p.6:10-12), and Hunter & Company provides management/administrative services, including financial management, keeping Debtor's members apprised of the business operations, assisting in preparing monthly operating reports and other administrative services (*id.*, p.6:14-19).

(v) Hammonds & Frey

The tentative ruling is that Hammonds & Frey is likely a "professional" whose employment must be approved by this Court. First, section 327(a) specifically names "accountants" as the type of professional that is typically required to be employed by the Court. 11 U.S.C. 327(a). Although Debtor argues that Hammonds & Frey is not providing services specific to the Debtor's bankruptcy case, that is undercut by the parties' own agreement, which contemplates Hammonds & Frey assisting Debtor with the preparation of Monthly Operating Reports ("MORs") and other important financial

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disclosures required by the Bankruptcy Code. See Dkt. 186, pdf p.29 ("[y]ou have requested that we prepare the financial statements of 110 West Properties, LLC, which comprise interim monthly balance sheet as of April 30, 2020 and interim months following, and the related profit and loss statements in the form prescribed by the Office of the United States Trustee Regional Headquarters.") Dkt. 186, pdf p.29.

Second, Debtor's monthly operating reports demonstrate that Debtor is not an operating business with routine functions requiring common accounting services (see, e.g., dkt. 195, 196), and Debtor's papers do not make clear what "ordinary course" services Hammonds & Frey might have provided post-petition to account for its \$18,497 bill. Dkt. 186, p.7:3-4. On this record, this Court is inclined to conclude that Hammonds & Frey's services are central to the Debtor's administration.

(vi) Hunter & Company

The tentative ruling is that Hunter & Company likely is a "professional" whose employment must be approved by this Court, but Debtor has not provided sufficient evidence of what services Hunter & Company provides.

Debtor argues that Hunter & Company is not providing services specific to Debtor's bankruptcy case, but that assertion is undercut by Debtor's own representation that Hunter & Company is "assisting in preparing monthly operating reports, and other administrative services," (dkt. 186, p.6:18-19) and the fact that Debtor is not an operating business. This also raises concerns about whether there has been a duplication of services with Hammonds & Frey. Additionally, even when Debtor was able to operate a parking facility before COVID-19 closures, Hunter & Company's "Services Agreement" makes clear that it provides services "unrelated to the direct management of the parking facilities." Dkt. 186, pdf p.96. Debtor's papers do not make clear what "ordinary course" services Hunter & Company might have provided post-petition to account for its \$40,392.44 bill. Dkt. 186, p.7:6-9. On this record, this Court is inclined to conclude that Hunter & Company's services are central to the Debtor's administration.

The parties should be prepared to address whether this Court should require Debtor to submit supplemental declaration(s) establishing what post-petition services Hammonds & Frey and Hunter & Company have provided.

(vii) Professionals must be "disinterested"

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Under 11 USC 327(a), professionals may not hold or represent any interests adverse to the estate and must be disinterested persons. Section 101(14)(A) defines a "disinterested person" as one who, among other things, "is not a creditor . . ." of the estate.

Rule 2014 (Fed. R. Bankr. P.), Local Bankruptcy Rule ("LBR") 2014-1(b)(1)(B) and Judge Bason's Posted Procedures (available at www.cacb.uscourts.gov) require professionals to establish their disinterestedness and disclose the nature of any actual or potential conflicts of interest by filing local form F 2014-1.STMT.DISINTEREST.PROF (statement of disinterestedness).

"Full disclosure is an essential prerequisite for both employment and compensation." *In re Triple Star Welding, Inc.*, 324 B.R. 778, 788-89 (9th Cir. BAP 2005). The disclosure requirements of Rule 2014 are to be strictly applied and bankruptcy courts do not have discretion to waive the requirement of a Rule 2014 statement. *Id.* at 779-90. "Pursuant to section 327, a professional has a duty to make full, candid and complete disclosure of all facts concerning his transactions with the debtor. Professionals must disclose all connections with the debtor, creditors and parties in interest, no matter how irrelevant or trivial those connections may seem." *In re Mehdipour*, 202 B.R. 474, 480 (9th Cir. BAP 1996) (internal citations omitted).

(ix) BBG

In support of the Appraisal Application, BBG submitted a statement of disinterestedness (dkt. 187, pdf pp.32-34). Although Dos Cabezas' raises certain objections regarding BBG's disclosures (dkt. 194, p.5:15-25), it has not cited any authority establishing that BBG should be disqualified simply because it has provided appraisals for Debtor's affiliates in the past. The tentative ruling is that BBG is disinterested and does not hold any interests adverse to the estate.

(x) Hammonds & Frey and Hunter & Company

Neither the Ordinary Course Application nor Debtor's reply papers include verified statements of disinterestedness from Hammonds & Frey or Hunter & Company affirming that they do not hold any interests adverse to the estate and are disinterested, so on that ground alone their employment cannot be approved.

Additionally and alternatively, neither Hammonds & Frey nor Hunter &

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Company are disinterested, because they both hold claims against Debtor's estate. See Claims 3 & 5; 11 U.S.C. 101(14)(A) ("[t]he term 'disinterested person' means a person that – (A) is not a creditor").

Additionally and alternatively, although Debtor correctly points out that Dos Cabezas' arguments are premised on a certain amount of speculation about possible conflicts of interests, Debtor does not squarely address the full extent and nature of those relationships or explain why it included a statement of disinterestedness in support of the Appraiser Application, but not for Hammonds & Frey or Hunter & Company. This is all the more troubling because there appears to be a lot of interlocking relationships between Debtor's management and owners of adjacent properties and insiders. See, e.g., Dkt. 186, pdf pp.102-07 (agreement between Ian Hunter, Shamrock Parking, Inc., Debtor, and other entities).

The parties should be prepared to address whether Hammonds & Frey and Hunter & Company are prepared to waive their claims and whether Debtor should be provided an opportunity to file supplemental declarations addressing these issues.

(xi) "Nunc pro tunc," retroactive relief, or employment as of a prior date

Debtor seeks what is characterizes as *nunc pro tunc* approval of BBG's, Hammond & Frey's and Hunter & Company's employment and compensation. First, there is actually a difference between *nunc pro tunc* orders, or "now for then" orders, which are supposed to be reserved for ministerial matters and correction of a court's own errors, and "retroactive" relief, which may be authorized by statute or other authority.

Moreover, there may be a difference between making employment "retroactive" and authorizing employment as of an earlier date. From the instant the bankruptcy petition is filed a professional's compensation is contingent on subsequent authorization for the professional's employment, but that contingency does not mean that the authorization itself has to be retroactive.

In any event, regardless of the semantic differences, the issue is whether the professionals whose employment is at issue can qualify for compensation for work that they performed before they sought this Bankruptcy Court's approval of their employment.

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(xii) Supreme Court authority; and the standards for relief

The ability to authorize any of the foregoing types of relief has been called into question by the Supreme Court's decision *Roman Catholic Archdiocese of San Juan, Puerto Rico v. Acevedo Feliciano*, 140 S.Ct 696 (2020). Courts have not been consistent in their application of *Acevedo*.

Some courts have interpreted it to prohibit essentially all retroactive relief, as noted by the Bankruptcy Appellate Panel of the Ninth Circuit (the "BAP"). *In re Merriman*, 616 B.R. 381, 391 (9th Cir. BAP 2020) (citing *In re Telles*, No. 8-20-70325-reg, 2020 WL 2121254 (Bankr. E.D.N.Y. Apr. 30, 2020)). Another interpretation is that, although employment cannot be retroactive, compensation can be. See *In re Miller*, 620 B.R. 637, 638 (Bankr. E.D. Cal. 2020). More generally, the BAP has interpreted *Acevedo* as primarily focused on jurisdiction, not retroactive relief generally. See *Merriman*, 616 B.R. 381, 392-95.

The tentative ruling is to agree with *Merriman*. In appropriate circumstances professionals' employment can be approved as of a date prior when their application was filed, but they must satisfy the traditional standards for such relief. Professionals must "(1) satisfactorily explain their failure to receive prior judicial approval; and (2) demonstrate that their services benefitted the bankruptcy estate in a significant manner." *In re Atkins*, 69 F.3d 970, 974 (9th Cir. 1995); see also *In re THC Fin. Corp.*, 837 F.2d 389 (9th Cir. 1988).

(xiii) BBG

BBG's employment application was filed on 1/5/21. Debtor submits that employment and compensation are warranted for BBG because Debtor initially believed that BBG's services were obtained in Debtor's ordinary course of business and filed the Appraiser Application once it was brought to its attention that BBG likely did qualify as a professional under 327(a). Dkt. 187, p.7:18-22. Debtor also submits that BBG's services benefitted the estate in a significant manner because the appraisal has provided debtor with better evidence to gauge incoming offers for the sale of its properties and to better evaluate its options in the administration of the estate. *Id.* p.7:22-25.

The tentative ruling is to authorize BBG's employment under 11 U.S.C. 327(a) and 328, effective as of the date when its services first were rendered. The tentative ruling is also to retroactively authorize BBG's compensation to 7/7/20, so that it may retain the entirety of the \$4,500 flat fee it received in

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(xiv) Hammonds & Frey and Hunter & Company

The tentative ruling is that Debtor has not adequately briefed the foregoing issues with respect to Hammonds & Frey and Hunter & Company. Although Debtor cites *Acevedo*, Debtor simply concludes that granting its request for retroactive relief "does not seek to 'creat[e] 'facts'" or rewrite history" because Debtor believes that Hammonds & Frey and Hunter & Company do not require formal retention under section 327. Dkt. 186, p.11:23-27. The tentative ruling is that this is insufficient. The parties should be prepared to address a deadline for supplemental papers.

(xv) Proposed ordinary course professionals procedures

The tentative ruling is to grant Debtor's proposed procedures for disclosing any parties Debtor seeks to employ in the ordinary course of its business to allow other parties in interest an opportunity to object to such classification and request a hearing for this Court to determine whether an employment application under 11 USC 327 is appropriate.

(d) Tarzana Crossing v. 110 West Properties, LLC et al. (2:20-ap-01012-NB)

There is no tentative ruling. The outcome of this motion may depend in part on this Court's rulings regarding Debtor's Disclosure Statement and Plan.

(2) Deadlines/dates. This case was filed on 11/29/19.

- (a) Bar date: 3/31/20 (dkt.46, timely served, dkt.49).
- (b) Procedures order: dkt. 2 (timely served, dkt. 8, 9)
- (c) Plan (dkt. 227)/Disclosure Statement (dkt. 228)*: See above.
- (d) Continued status conference: 5/11/21 at 1:00 p.m., concurrent with other matters. No status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at

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www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 4/6/21:
Appearances required.

(1) Current issues

(a) Debtor's Sale/Settlement Motion (dkt. 212, amended by dkt. 217), opposition of Tarzana Crossing (dkt. 219), Debtor's reply (dkt. 224)

The tentative ruling is to deny the motion for the following reasons.

(i) Proposed sale of Properties

Debtor seeks approval of a sale of substantially all of its assets to Criscione-Meyer Entitlement ("Buyer") for \$22,000,000 pursuant to 11 U.S.C. 363(b) & (f). The proposed purchase price is to be paid as follows. Debtor will receive an immediate cash payment of \$10,000,000 and a promissory note due in full in 24 months at 3% annual percentage rate, a deed of trust securing the remaining \$12,000,000, and a guaranty. Dkt. 217, pp.8:17-9:19.

(A) Legal standard

Under 11 U.S.C. 363(b), the Debtor may sell estate property out of the ordinary course of business, subject to court approval. The Debtor must articulate a sufficient business reason for the sale. *In re Wilde Horse Enters., Inc.*, 136 B.R. 830, 841 (Bankr. C.D. Cal. 1991). In determining whether a sale satisfies the business judgment standard, courts must find that the sale "is in the best interests of the estate, *i.e.*, that it is fair and reasonable, that it has been given adequate marketing, that it has been negotiated and proposed in good faith, that the purchaser is proceeding in good faith, and that it is an 'arms length' transaction." *Id.* at 841-42. Whether the articulated business justification is sufficient "depends on the case," in view of "all salient factors pertaining to the proceeding." *In re Walter*, 83 B.R. 14, 19-20 (9th Cir. BAP 1988). In proposing a sale outside of the ordinary course, Debtor has

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the burden of demonstrating that the sale is in the best interests of the estate.
Wilde Horse, 136 B.R. at 841.

(B) Debtor has not carried its burden of demonstrating that the sale is in the best interests of the estate

(1) Sound business purpose/adequate disclosures

The "key to the reorganization Chapter ... is *disclosure*" *Wilde Horse*, 136 B.R. at 841 (emphasis in original). "The essential purpose served by disclosure is to ensure that parties in interest are not left entirely at the mercy of the debtor and others having special influence over debtor." *Id.* Accordingly, "[a] sale of substantially all of debtor's property outside the ordinary course of business, and without a Chapter 11 disclosure statement and plan, must be closely scrutinized." *Id.* (citation omitted); *In re Lionel Corp.*, 722 F.2d 1063, 1069 (2d Cir. 1983) (reversing a approval of asset sale after holding that 11 U.S.C. 363 does not "gran[t] the bankruptcy judge *carte blanche*" or "swallo[w] up Chapter 11's safeguards"); *In re Braniff Airways, Inc.*, 700 F.2d 935, 940 (5th Cir. 1983) (prohibiting an attempt "to short circuit the requirements of Chapter 11 for confirmation of a reorganization plan by establishing the terms of the plan *sub rosa* in connection with a sale of assets").

For the reasons stated in Tarzana Crossing's opposition papers (dkt. 219, p.7:2-19) and this Court's own review of the sale ballots (dkt. 224, Ex.A), this Court has concerns that Debtor may be intentionally or inadvertently circumventing important procedural safeguards by failing to provide its members with meaningful and comprehensive disclosures about the proposed sale and settlement with one of the prior defaulting buyers. This includes, but is not limited to, whether Debtor's members were adequately informed of their ability to vote "no" on the sale ballot, the potentially significant adverse tax consequences, and the identity and current financial wherewithal of the proposed Buyer.

Debtor also balks at Tarzana Crossing's assertion that Debtor was obligated to disclose potentially adverse tax consequences arising from the sale (dkt. 224, pp.3:19-4:3). But Debtor offers no explanation for why that should not have been disclosed prior to any voting. By electing to proceed under section 363(b), Debtor appears to be depriving creditors from receiving "adequate information" as required by 11 U.S.C. 1125(a)(1), which provides for disclosure of:

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information of a kind, and in sufficient detail, as far as is reasonably practicable in light of the nature and history of the debtor and the condition of the debtor's books and records, including a discussion of the potential material Federal tax consequences of the plan to the debtor, any successor to the debtor, and a hypothetical investor of the relevant class to make an informed judgment about the plan [11 U.S.C. 1125(a)(1)]

For the foregoing reasons, the tentative ruling is that Debtor has not sufficiently articulated a sound business justification for electing to sell the Properties through section 363 in lieu of a plan.

(2) Fair and reasonable sale price

The tentative ruling is that Debtor has not presented sufficient evidence for this Court to find that the \$22,000,000 sale price is fair and reasonable. True, the sale price greatly exceeds any other offers Debtor has received, but this Court questions why Debtor would so willingly repackage a sale to one of the defaulting buyers, at a \$13,000,000 discount, despite the parties' contentious past.

Debtor has not presented evidence establishing that the Properties were adequately marketed to justify a private sale to one of the prior defaulting buyers.

Debtor's alleged marketing efforts are broadly described as consisting of Colliers International (x) "distributing marketing materials to prospective potential purchasers of the Properties," (y) "engaging in multiple discussions with prospective potential purchasers," and (z) "initiating a call for offers to thousands of prospective potential investors, developers, real estate agents, buyers, etc.," on 11/16/20." Dkt. 217, p.6:22-27 & Dkt. 183. Debtor further states that in response to the call for offers, Colliers received three offers, ranging from \$8,000,000 to \$13,300,000, which have now all expired. *Id.* pp.6:28-7:2.

But this Court's 12/8/20 tentative ruling expressed concerns with the adequacy of the marketing efforts up to that point:

First, Debtor is directed to address why the flyer distributed by Collier included the banner "Bankruptcy Court Approved" (dkt.180, Ex.1, *and* dkt.183, Ex.1). This Court has not approved any sale (although this Court has approved the employment of Colliers to market of the subject property). In fact, there are open questions about whether Debtor even has the ability to sell the subject

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property without Dos Cabezas' consent.

Second, Debtor is directed to address how it proposes to disclose to prospective purchasers of the properties the fact that Debtor is seeking to sell the subject property before the State Court has determined the underlying disputes with Dos Cabezas. True, as noted in the tentative ruling for 10/27/20, it is possible that Debtor can distinguish *In re Popp*, 323 B.R. 260, 268 (9th Cir. BAP 2005), and *In re Owens-Johnson*, 118 B.R. 780 (Bankr. S.D. Cal. 1990). But the tentative ruling is that Debtor has to disclose to prospective purchasers that (as this Court understands the issues) Dos Cabezas is asserting that (i) Debtor does not own the subject property, and therefore cannot sell it, and alternatively (ii) a sale under 11 U.S.C. 363(b) and (f) should not, or cannot, be used to defeat a claim for specific performance.

In other words, Debtor is directed to address (in consultation with Colliers) how it will disclose to prospective purchasers the potential obstacles to selling the property, without either misleading purchasers or unduly chilling any potential bidding. Of course, this Court recognizes that in chapter 11 there is a certain degree of deference to the business judgment of Debtor, in consultation with Colliers, regarding how best to market the subject property and when and how to provide disclosures. This Court also recognizes that Dos Cabezas might decide that it is in its own interest to consent to the sale (while preserving whatever interests or claims it might have regarding the proceeds of sale), so as to (i) maximize the value of the bankruptcy estate's assets, (ii) stop the running of interest - especially any default interest - owed to the senior lienholder, and thereby (iii) maximize the funds from which its claim and/or equity interests could receive distributions.

But Debtor's flyer ("Bankruptcy Court Approved," dkt.183, Ex.1, at PDF p.9), combined with Debtor's apparently cavalier attitude toward employment and compensation of professionals (see below), raise concerns about whether Debtor and Colliers are not exercising their business judgment appropriately. Debtor is cautioned that failure to exercise proper business judgment, and act as a trustee for the benefit of creditors, might lead to adverse consequences. [See Tentative Ruling for Calendar No. 21, 12/8/20

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At the hearing on 12/8/20, this Court orally directed Debtor to file supplemental declaration(s) addressing the foregoing issues. On 1/5/21, Debtor timely filed a status report, but the only additional information Debtor provided in connection with its marketing efforts was that "[t]he proposed buyers who submitted offers for the Properties were advised of the State Court litigation and lis pendens affecting the Properties." Dkt. 188, p.5:24-25. Debtor's status report only raises further questions. Did Collier conduct any further marketing efforts following its November 2020 call for offers? What disclosures were provided to the three interested buyers and/or any other interested buyers? Could such disclosures have had the opposite affect of what this Court was concerned might happen, and instead chilled bidding? If Debtor's \$22,000,000 appraisal is accurate, why were the offers Debtor received (prior to disclosing its existing litigation) so low?

For the foregoing reasons, the tentative ruling is that Debtor has not carried its burden as to this factor.

(ii) Proposed settlement with mutual releases

In conjunction with the proposed sale Debtor also seeks approval of a global settlement with mutual releases between Debtor, the proposed Buyer, Dos Cabezas, Michael Criscione and Michael Meyer that would resolve outstanding litigation. Dkt. 217, pp.18:16-22:3. The tentative ruling is that without further disclosures, this Court is skeptical about the propriety of the proposed settlement. The Debtor's papers do not make clear what consideration Dos Cabezas, Michael Criscione and Michael Meyer are receiving in exchange for the consideration being provided to the estate and execution of the mutual releases. Nor is it clear whether the mutual releases attempt to circumvent 11 U.S.C. 524(e)'s prohibition against third-party releases by dismissing any claims against non-settling third-parties, such as RU, LLC, who is also a defendant in the Derivative Action. See Adv. No. 2:20-ap-01012-NB, dkt. 1.

(b) Motion of Doz Cabezas Properties, LLC ("Dos Cabezas") to dismiss case (dkt. 145, 166, the "MTD"), Debtor's opposition (dkt. 168), Dos Cabezas's reply (173), Dos Cabezas's supplemental papers (dkt. 179, 182), Debtor's supplemental papers (dkt. 181, 183), Debtor's status report (dkt. 188), Doz Cabezas's supplemental papers (dkt. 193), Debtor's supplemental

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response (dkt. 197)

There is no tentative ruling. The outcome of this motion may depend in part on whether this Court adopts its Tentative Ruling for the Sale/Settlement Motion.

(c) Debtor's applications to retain and compensate ordinary course professionals (dkt. 186, "Ordinary Course Application"), and employ BBG, Inc., as its appraiser (dkt. 187, "Appraisal Application") (together, the "Applications"), Omnibus opposition of Dos Cabezas (dkt. 194), Debtor's reply (dkt. 198)

The tentative ruling is to continue this matter concurrent with the continued status conference (see Section 2(d) below).

(d) Tarzana Crossing v. 110 West Properties, LLC et al. (2:20-ap-01012-NB)

There is no tentative ruling. The outcome of this motion may depend in part on whether this Court adopts its Tentative Ruling for the Sale/Settlement Motion.

(2) Deadlines/dates. This case was filed on 11/29/19.

(a) Bar date: 3/31/20 (dkt.46, timely served, dkt.49).

(b) Procedures order: dkt. 2 (timely served, dkt. 8, 9)

(c) Plan/Disclosure Statement*: N/A

(d) Continued status conference: 5/11/21 at 1:00 p.m., *Brief* status report due 4/27/21.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the

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first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 3/2/21:

[Intentionally omitted]

Tentative Ruling for 12/8/20:

Appearances required.

(1) Current issues

(a) Motion of Doz Cabezas Properties, LLC ("Dos Cabezas") to dismiss case (dkt. 145, 166), Debtor's opposition (dkt. 168), Dos Cabezas's reply (173), Dos Cabezas's supplemental papers (dkt. 179, 182), Debtor's supplemental papers (dkt. 181, 183)

The tentative ruling is not to strike the latest, unauthorized briefs. In any event, with or without considering them, the tentative ruling is to deny the motion to dismiss this case, without prejudice, for the reasons stated in this Court's tentative ruling for 10/27/20 (copied below), with the following caveats.

First, Debtor is directed to address why the flyer distributed by Collier included the banner "Bankruptcy Court Approved" (dkt.180, Ex.1, *and* dkt.183, Ex.1). This Court has not approved any sale (although this Court has approved the employment of Colliers to market of the subject property). In fact, there are open questions about whether Debtor even has the ability to sell the subject property without Dos Cabezas' consent.

Second, Debtor is directed to address how it proposes to disclose to prospective purchasers of the properties the fact that Debtor is seeking to sell the subject property before the State Court has determined the underlying disputes with Dos Cabezas. True, as noted in the tentative ruling for 10/27/20, it is possible that Debtor can distinguish *In re Popp*, 323 B.R. 260, 268 (9th Cir. BAP 2005), and *In re Owens-Johnson*, 118 B.R. 780 (Bankr. S.D. Cal. 1990). But the tentative ruling is that Debtor has to disclose to prospective purchasers that (as this Court understands the issues) Dos Cabezas is asserting that (i) Debtor does not own the subject property, and therefore cannot sell it, and alternatively (ii) a sale under 11 U.S.C. 363(b) and (f) should not, or cannot, be used to defeat a claim for specific performance.

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In other words, Debtor is directed to address (in consultation with Colliers) how it will disclose to prospective purchasers the potential obstacles to selling the property, without either misleading purchasers or unduly chilling any potential bidding. Of course, this Court recognizes that in chapter 11 there is a certain degree of deference to the business judgment of Debtor, in consultation with Colliers, regarding how best to market the subject property and when and how to provide disclosures. This Court also recognizes that Dos Cabezas might decide that it is in its own interest to consent to the sale (while preserving whatever interests or claims it might have regarding the proceeds of sale), so as to (i) maximize the value of the bankruptcy estate's assets, (ii) stop the running of interest - especially any default interest - owed to the senior lienholder, and thereby (iii) maximize the funds from which its claim and/or equity interests could receive distributions.

But Debtor's flyer ("Bankruptcy Court Approved," dkt.183, Ex.1, at PDF p.9), combined with Debtor's apparently cavalier attitude toward employment and compensation of professionals (see below), raise concerns about whether Debtor and Colliers are not exercising their business judgment appropriately. Debtor is cautioned that failure to exercise proper business judgment, and act as a trustee for the benefit of creditors, might lead to adverse consequences.

(b) Apparently unauthorized retention and payment of professionals

Debtor is directed to address the apparently unauthorized employment and payment of persons who appear to be professionals: Hammonds & Frey (accounting/tax services), Hunter & Co. (management), and BBG, Inc. (appraisal). See dkt.179, p.4:3-23. Debtor alleges (dkt.181, pp.4:23-5:27) that none of these services are "central to the administration of the estate," and instead are "ordinary course" payments that purportedly do not require Court authorization. But, first, there is no evidence to support those allegations and, second, Debtor's explanation raises its own concerns - for example, it is potentially troubling if Debtor is relying on someone to do accounting and tax services who is not addressing the bankruptcy-specific aspects of accounting and tax issues (*i.e.*, if they do not qualify as professionals, that in itself might be problematic).

The tentative ruling is to set a **deadline of 1/5/21** for Debtor and/or those persons to file and serve on all parties in interest either (i) applications for employment, including any authority for retroactive authorization, or (ii)

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briefs and evidence as to why such persons are not professionals and/or why the payments to them are "ordinary course" and/or whatever other arguments they assert as to why notice, a hearing, and this Court's prior authorization for employment and payment allegedly were not required. The tentative ruling is to set **deadlines of 1/12/21 for any responses, and 1/19/21 for any replies.**

(2) Deadlines/dates. This case was filed on 11/29/19.

(a) Bar date: 3/31/20 (dkt.46, timely served, dkt.49).

(b) Procedures order: dkt. 2 (timely served, dkt. 8, 9)

(c) Plan/Disclosure Statement*: N/a

(d) Continued status conference: 1/26/21 at 1:00 p.m. *Brief* status report due 12/29/20.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 10/27/20:

Appearances required.

(1) Current issues

(a) Doz Cabezas Properties, LLC's ("Dos Cabezas") motion to dismiss case (dkt. 145, 166), Debtor's opposition (dkt. 168), Dos Cabezas's reply (173)

The tentative ruling is to deny the motion without prejudice on the grounds that this Court is not persuaded that, on the present record, sufficient

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"cause" exists under 11 U.S.C. 1112(b)(4) to convert or dismiss this case.

First, litigation takes time and Dos Cabezas has not presented sufficient evidence to persuade this Court that Debtor is not diligently prosecuting this bankruptcy case and the State Court action. To the contrary, Debtor's prosecution of this case appears to be reasonable in light of the uncertainty and challenges presented by COVID-19, the resulting backlog in state courts, and the great deal of latitude afforded to debtors exercising their business judgment about matters of case administration.

Second, Dos Cabezas' reliance on *In re Popp*, 323 B.R. 260, 268 (9th Cir. BAP 2005), and *In re Owens-Johnson*, 118 B.R. 780 (Bankr. S.D. Cal. 1990), is not dispositive. True, it is likely that Debtor's anticipated motion to sell the subject property will be subject to objections based on arguments that (i) Debtor cannot sell what it does not own and (ii) a sale under 11 U.S.C. 363(b) and (f) should not, or cannot, be used to defeat a claim for specific performance. But (x) this Court cannot presume, in advance, that those anticipated objections will prevail, (y) even if a sale were blocked, Debtor has other options (e.g., proposing a plan of reorganization, or waiting until a determination in the State Court litigation that Debtor has an ownership interest in the subject property, and therefore can sell it), and (z) even if all of those things were to turn out in future not to be viable options, it is premature to dismiss this case based on that future possibility.

(b) Dos Cabezas Properties, LLC, Criscione-Meyer Entitlement, Michael Criscione and Michael Meyer's ("Movants") omnibus objection to proofs of claim (dkt. 121, "Claim Objections") 4-1/4-2, 6-1, 7-1, 8-1, 9-1, 10-1, 11-1, 12-1, 13-1, 14-1, 15-1, 16-1, 17-1, 18-1, 19-1, 20-1, 22-1, 23-1/23-2, 24-1, 25-1, 26-1, 27-1, 29-1, 31-1, 32-1, 33-1, 34-1, 35-1, 36-1 and 37-1 ("the Claims"), stipulation & order continuing hearing (dkt. 129, 131), Tarzana Crossing, a Merchant Faire, LLC's ("Tarzana Crossing") opposition (dkt. 137), no reply is on file

Appearances required. At the hearing on 8/18/20 this Court was persuaded to continue this matter, rather than adopt the tentative ruling (reproduced below). The parties should be prepared to address the issues set forth in that tentative ruling and their filed papers.

(2) Deadlines/dates. This case was filed on 11/29/19.

(a) Bar date: 3/31/20 (dkt.46, timely served, dkt.49).

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(b) Procedures order: dkt. 2 (timely served, dkt. 8, 9)

(c) Plan/Disclosure Statement*: N/a

(d) Continued status conference: 12/8/20 at 1:00 p.m. *Brief* status report due 11/24/20.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, all appearances are telephonic via CourtCall at (888) 882-6878.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

110 West Properties, LLC

Represented By
Gregory K Jones
Jeffrey Huron
Danielle N Rushing

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Adv#: 2:20-01012 Tarzana Crossing, a Merchant Faire, LLC v. 110 West Properties, LLC et al

#9.00 Cont'd hrg re: Motion of Creditors/Defendants Dos Cabezas Properties, LLC, Criscione-Meyer Entitlement, a Limited Liability Company Cell of Almond Tree Capital Management Co., LLC, Michael Criscione to Remand Tarzana Crossing, A Merchant Faire, LLC's Complaint and Request for Attorney's Fees in the Amount of \$2,800.00
fr. 03/31/20, 5/12/20, 6/30/20, 8/18/20, 10/27/20, 12/8/20, 1/26/21, 2/9/21, 03/02/21, 4/6/21, 4/27/21, 5/11/21

Docket 7

Tentative Ruling:

Tentative Ruling for 6/1/21:

Please see the tentative ruling for the main case status conference (Calendar No. 8, 6/1/21 at 2:00 p.m.).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

110 West Properties, LLC

Represented By
Gregory K Jones
Jeffrey Huron
Danielle N Rushing

Defendant(s):

110 West Properties, LLC

Represented By
Gregory K Jones
Jeffrey Huron

RU, LLC

Pro Se

Dos Cabezas Properties, LLC

Represented By
Thomas F Nowland
Robert P Goe

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Charity J Manee

Criscione-Meyer Entitlement, LLC

Represented By
Thomas F Nowland

Michael Criscione

Represented By
Thomas F Nowland

First American Title Company

Pro Se

Movant(s):

Dos Cabezas Properties, LLC

Represented By
Thomas F Nowland
Robert P Goe
Charity J Manee

Criscione-Meyer Entitlement, LLC

Represented By
Thomas F Nowland

Michael Criscione

Represented By
Thomas F Nowland

Plaintiff(s):

Tarzana Crossing, a Merchant Faire,

Represented By
Alan M Feld
Peter C. Bronson
Peter C Bronson

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#10.00 Cont'd Status Conference re: Notice of Removal
fr. 03/31/20, 5/12/20, 6/30/20, 8/18/20, 10/27/20
12/8/20, 1/26/21, 2/9/21, 03/02/21, 4/6/21, 4/27/21,
5/11/21

Docket 1

Tentative Ruling:

Tentative Ruling for 6/1/21:

Please see the tentative ruling for the main case status conference (Calendar No. 8, 6/1/21 at 2:00 p.m.).

[INTERIM TENTATIVE RULINGS OMITTED]

Tentative Ruling for 12/8/20:

Appearances required.

(1) Current issues

(a) Motion for remand (adv. dkt. 7, "Remand Motion") and supporting declaration (adv. dkt. 8), Plaintiff's opposition (adv. dkt. 10), Movants' reply (adv. dkt. 12)

This matter has been continued several times to allow time for the parties to participate in settlement negotiations. The tentative ruling is to continue this matter again, concurrent with the status conference in the main case, in view of Debtor's report (main case, dkt.180, p.5:17-20) that Debtor and Tarzana Crossing have tentatively reached a settlement for which Debtor intends to seek approval.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are

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appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 10/27/20:
[Intentionally omitted]

Tentative Ruling for 8/18/20:
Appearances required.

Pursuant to Judge Bason's COVID19 Procedures, **ONLY TELEPHONIC APPEARANCES WILL BE PERMITTED until further notice**. Please contact CourtCall at (888) 882-6878 to make arrangements for any telephonic appearance. There is no need to contact the Court for permission. Parties who are not represented by an attorney will be able to use CourtCall for free through 9/30/20. Attorneys will receive a 25% discount (for more information, see www.cacb.uscourts.gov, "Judges," "Bason, N.," "Telephonic Instructions").

(1) Current issues

(a) Motion for remand (adv. dkt. 7, "Remand Motion") and supporting declaration (adv. dkt. 8), Plaintiff's opposition (adv. dkt. 10), Movants' reply (adv. dkt. 12)

This matter was continued to allow time for the parties to participate in a second round of mediation, which was been scheduled to take place on 7/17/20 (Main Case, dkt. 129, p.2:7-8). On 8/4/20, Debtor filed a status report (Main Case, dkt. 136, p.4:22-26) stating that "the parties were unable to resolve their disputes [at the mediation, but] are continuing to make efforts to resolve their disputes through Mr. Gould."

There is no tentative ruling, but the parties should be prepared (a) to provide this Court with any updates on the status of those negotiations (if any) and (b) to address whether this matter should be further continued or this Court should rule on the merits of the Remand Motion.

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2:00 PM

CONT... 110 West Properties, LLC

Chapter 11

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear telephonically without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 6/30/20:

[Intentionally omitted]

Tentative Ruling for 5/12/20:

[Intentionally omitted]

Tentative Ruling for 3/31/20:

Appearances required, to address whether, prior to remand, this Court should order mandatory mediation. But, pursuant to Judge Bason's COVID19 Procedures, **telephonic appearances are REQUIRED until further notice.**

Please contact CourtCall at (888) 882-6878 to make arrangements for any telephonic appearance. There is no need to contact the Court for permission. Parties who are not represented by an attorney will be able to use CourtCall for free through 4/30/20. Attorneys will receive a 25% discount (for more information, see www.cacb.uscourts.gov, "Judges," "Bason, N.," "Telephonic Instructions").

This Court has reviewed the parties' joint status report (dkt. 11) and the other filed documents and records in this adversary proceeding.

(1) Current issues

(a) Motion for remand (adv. dkt. 7, "Remand Motion") and supporting declaration (adv. dkt. 8), Plaintiff's opposition (adv. dkt. 10), Movants' reply (adv. dkt. 12)

Defendants Dos Cabezas Properties, LLC, Criscione-Meyer Entitlement, LLC, and Michael Criscione (collectively, the "Movants") seek an order remanding this proceeding and for an award of attorneys fees and costs imposed against plaintiff Tarzana Crossing, a Merchant Faire, LLC

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CONT... 110 West Properties, LLC
("Plaintiff").

Chapter 11

For the reasons set forth below, the tentative ruling is to grant the request to remand this removed action, but perhaps defer the remand until after mediation, and deny the request for attorney fees.

(i) Jurisdiction

The parties dispute whether this Court has subject matter jurisdiction to hear this proceeding. The tentative ruling is that this Court has "related to" jurisdiction pursuant to 28 U.S.C. 157(c)(1), because the parties' dispute arises from an alleged breach of contract for the sale of the estate's principal asset.

(ii) Mandatory abstention

The tentative ruling is that mandatory abstention applies as follows. Mandatory abstention under 28 U.S.C. 1334(c)(2) requires seven elements: (1) a timely motion; (2) a purely state law question; (3) a non-core proceeding under 28 U.S.C. 157(c)(1); (4) a lack of independent federal jurisdiction absent the petition under Title 11; (5) that an action is commenced in a state court; (6) the state court action may be timely adjudicated; (7) a state forum of appropriate jurisdiction exists. [*In re Gen. Carriers Corp.*, 258 B.R. 181, 189 (9th Cir. BAP 2001) (internal quotation omitted).]

These elements are satisfied: (1) the motion was timely - the proceeding was removed on 1/22/20 and Movants filed the remand motion just 30 days later, on 2/21/20; (2) the complaint involves purely nonbankruptcy law questions (breach of fiduciary duty etc., adv. dkt. 7, p. 2:17-21) (Movants state that they amended their complaint on 8/30/19, but there is nothing in the record reflecting what was amended (*id.*, p. 2:21), so this Court bases its ruling on the record presented); (3) the proceeding is noncore - the authorities cited by the removing party (dkt.10, pp.14:24-15:14) are distinguishable because they all involved alleged violations of fiduciary duties within the bankruptcy case itself, not prepetition and nonbankruptcy alleged violations; (4) no independent federal jurisdiction has been asserted; (5) the action was commenced prepetition, on 12/14/18, in Los Angeles Superior Court; (6) there is no evidence that the proceeding cannot be timely adjudicated in the State Court; and (7) neither party has contested in this Court the State Court's jurisdiction over the proceeding.

(iii) Discretionary abstention

Alternatively, and in addition, the tentative ruling is that discretionary

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CONT... 110 West Properties, LLC

Chapter 11

abstention is appropriate.

Discretionary abstention under 28 U.S.C. 1334(c)(1) requires consideration of the following twelve factors:

(1) the effect of lack thereof on the efficient administration of the estate if a Court recommends abstention, (2) the extent to which state law issues predominate over bankruptcy issues, (3) the difficulty or unsettled nature of the applicable law, (4) the presence of a related proceeding commenced in state court or other nonbankruptcy court, (5) the jurisdictional basis, if any, other than 28 U.S.C. 1334, (6) the degree of relatedness or remoteness of the proceeding to the main bankruptcy case, (7) the substance rather than form of an asserted "core" proceeding, (8) the feasibility of severing state law claims from core bankruptcy matters to allow judgments to be entered in state court with enforcement left to the bankruptcy court, (9) the burden of the bankruptcy court's docket, (10) the likelihood that the commencement of the proceeding in bankruptcy court involves forum shopping by one of the parties, (11) the existence of a right to a jury trial, and (12) the presence in the proceeding of nondebtor parties.

In re Tucson Estates, Inc., 912 F.2d 1162, 1167 (9th Cir. 1990).

Several of the *Tucson* factors weigh in favor of abstention. First, the Complaint involves purely state-law issues. Second, this Court would not have jurisdiction over the Complaint but for the Debtor's bankruptcy petition, because the claims arise under state law and there is no diversity between the parties. Third, the Complaint involves several non-debtor parties who have asserted a right to a jury trial. Fourth, permitting the Complaint to proceed in state court will contribute to the efficient administration of the bankruptcy case because the State Court is the best tribunal to adjudicate the parties' state law claims. Fifth, although the Complaint is related to the main bankruptcy case because it involves claims relating to the primary asset of the estate, deferring to the State Court to adjudicate the parties' claims will not unduly interfere with this Bankruptcy Court's determination of other matters in the bankruptcy case.

(iv) Movants' request for attorneys' fees is denied

The tentative ruling is to deny Movant's request for attorneys' fees because this Court is not persuaded that Plaintiff lacked an objectively reasonable basis for seeking removal of this action because the dispute is related to the primary asset of Debtor's bankruptcy estate.

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Chapter 11

Proposed order: Movants are directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1) (B).

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(2) Venue/jurisdiction/authority.

The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this Bankruptcy Court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. See generally *Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). See generally *In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(3) Mediation. [Intentionally omitted]

(4) Deadlines: [Intentionally omitted]

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at

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www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear telephonically without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

110 West Properties, LLC

Represented By
Gregory K Jones
Jeffrey Huron
Danielle N Rushing

Defendant(s):

110 West Properties, LLC

Represented By
Gregory K Jones
Jeffrey Huron

RU, LLC

Pro Se

Dos Cabezas Properties, LLC

Represented By
Thomas F Nowland
Robert P Goe
Charity J Manee

Criscione-Meyer Entitlement, LLC

Represented By
Thomas F Nowland

Michael Criscione

Represented By
Thomas F Nowland

First American Title Company

Pro Se

Plaintiff(s):

Tarzana Crossing, a Merchant Faire,

Represented By
Alan M Feld
Peter C. Bronson
Peter C Bronson

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2:18-24302 GL Master Inc

Chapter 7

#11.00 Cont'd Order to Show Cause re: Civil Contempt Against
Young Young Food LLC, and For Sanctions
fr. 10/27/20, 12/1/20, 12/22/20, 1/5/21, 1/26/21,
4/27/211, 5/11/21

Docket 213

***** VACATED *** REASON: Cont'd to June 15 at 2:00 p.m. See dkt. 303.**

Tentative Ruling:

Party Information

Debtor(s):

GL Master Inc

Represented By
Thomas J Polis

Trustee(s):

Edward M Wolkowitz (TR)

Pro Se

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2:00 PM

2:20-20815 Susan E Brooks

Chapter 13

#12.00 Cont'd hrg re: Motion to Commence Loan
Modification Management Program (LMM)
fr. 5/20/21

Docket 36

Tentative Ruling:

Tentative Ruling for 6/1/21:

Appearances required.

At the 5/20/21 hearing, this Court continued the matter to allow U.S. Bank, N.A. as Legal Trustee for Truman 2016 SC6 Title Trust and serviced by Rushmore Loan Management Services ("U.S. Bank") an opportunity to evaluate whether U.S. Bank's position on a postpetition loan modification has changed. There is no tentative ruling, but the parties should be prepared to address whether U.S. Bank's position on a postpetition loan modification has changed.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 5/20/21:

Appearances required.

There is no tentative ruling, however the parties should be prepared to

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CONT... Susan E Brooks

Chapter 13

address the issues raised in the opposition filed by U.S. Bank, NA as Legal Title Trustee for Truman 2016 SC6 Title Trust (dkt. 37) and Debtor's reply (dkt. 45).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Susan E Brooks

Represented By
Stephen S Smyth
William J Smyth

Movant(s):

Susan E Brooks

Represented By
Stephen S Smyth
William J Smyth

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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9:00 AM
2:00-00000

Chapter

#1.00 ZoomGov Instructions for all matters on today's calendar:

Meeting ID: 161 173 2909

Password: 883295

Meeting URL: <https://cacb.zoomgov.com/j/1611732909>

Telephone: +1 669 254 5252 or +1 646 828 7666 or 833 568 8864 (Toll Free)

Please connect at least 5 minutes before the start of your hearing, and wait with your microphone muted until your matter is called. You do not need to call Chambers for advance approval. ZoomGov appearances are free

Docket 0

Tentative Ruling:

- NONE LISTED -

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2:19-15135 Bryan A Kumiyama

Chapter 13

#1.00 Hrg re: Motion for relief from stay [RP]

U.S. BANK NATIONAL ASSOCIATION
vs
DEBTOR

Docket 52

***** VACATED *** REASON: APO**

Tentative Ruling:

Party Information

Debtor(s):

Bryan A Kumiyama

Represented By
David S Hagen

Movant(s):

U.S. Bank National Association, as

Represented By
Nancy L Lee
Milton Williams
Kelly M Kaufmann
Yadira P Delgado
Tavon Taylor
Jennifer C Wong

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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10:00 AM

2:21-11286 Lee Christopher Rogers

Chapter 7

#2.00 Hrg re: Motion for relief from stay [RP]

U.S. Bank National Association
vs
DEBTOR

Docket 20

***** VACATED *** REASON: Continued to 9/14/21 per stipulation (dkt. 25) and order thereon.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Lee Christopher Rogers

Represented By
R Grace Rodriguez

Movant(s):

U.S. Bank National Association

Represented By
Dane W Exnowski

Trustee(s):

Wesley H Avery (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 1545

10:00 AM

2:21-10360 Maureen C. Redmond

Chapter 7

#3.00 Hrg re: Motion for relief from stay [RP]

NATIONSTAR MORTGAGE LLC
vs
DEBTOR

Docket 31

Tentative Ruling:

Appearances are not required.

Grant as set forth below.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

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CONT...

Maureen C. Redmond

Chapter 7

are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Maureen C. Redmond

Represented By
Raymond H. Aver

Movant(s):

Nationstar Mortgage LLC

Represented By
Cassandra J Richey

Trustee(s):

Carolyn A Dye (TR)

Pro Se

**United States Bankruptcy Court
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10:00 AM

2:18-10981 Jorge Cabitlas Cabalum

Chapter 13

#4.00 Hrg re: Motion for relief from stay [RP]

NEWREZ LLC
vs
DEBTOR

Docket 49

Tentative Ruling:

Appearances are not required.

Grant as set forth below.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter

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CONT... Jorge Cabitlas Cabalum Chapter 13

by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Jorge Cabitlas Cabalum

Represented By
Julie J Villalobos

Movant(s):

NewRez LLC d/b/a Shellpoint

Represented By
Robert P Zahradka

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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10:00 AM

2:20-16242 Magdalena Avila

Chapter 13

#5.00 Hrg re: Motion for relief from stay [RP]

THE BANK OF NEW YORK MELLON
vs
DEBTOR

Docket 85

Tentative Ruling:

Appearances are not required.

Grant as set forth below.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

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CONT...

Magdalena Avila

Chapter 13

are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Magdalena Avila

Represented By
Stephen S Smyth

Movant(s):

The Bank of New York Mellon

Represented By
Sean C Ferry
Eric P Enciso

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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10:00 AM

2:21-12216 Susan Jane Bybee

Chapter 13

#6.00 Hrg re: Motion for relief from stay [RP]

CITY OF BELLFLOWER
vs
DEBTOR

Docket 35

Tentative Ruling:

Grant, and overrule Debtor's opposition (dkt. 38), all as set forth below.
Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Background: Debtor states that she "will address and fix all the nuisance abatement issues up to Movant's satisfaction by or before the hearing date ..." Opp. (dkt. 38), p.4:22-23. But, for the following alternative reasons, the tentative ruling is that this is insufficient.

First, the tentative ruling is that no stay applies to Movant's ongoing and proposed acts, under 11 U.S.C. 362(b)(4) - the "police or regulatory powers" exception. Second, the tentative ruling is that Movant's evidence has established *prima facie* "cause" to terminate the automatic stay under 11 U.S.C. 362(d)(1).

(1) The automatic stay does not apply under 11 U.S.C. 362(b)(4)

The tentative ruling is that, pursuant to the authorities cited in the motion papers (dkt. 36, pp.7:3-8:7), Movant's acts to take possession of and remediate the subject property are within the "police or regulatory powers" exception to the automatic stay. See 11 U.S.C. 362(b)(4). As Movant highlights in its reply papers (dkt. 39, pp.3:4-7:15), Debtor does not actually dispute this issue.

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CONT... Susan Jane Bybee

Chapter 13

(2) Alternatively, there is "cause," under 11 U.S.C. 362(d)(1), to grant relief from any automatic stay that does exist

In the alternative and in addition, the tentative ruling is to grant relief from the automatic stay as follows.

Note regarding mootness: Judge Bason's standard tentative ruling is as follows. For three reasons the above tentative ruling that there *is no stay* does not moot requests for relief from whatever stay might apply. First, such *alternative* rulings are appropriate because (i) the very nature of *tentative* rulings is that this Court could be persuaded to depart from any one of them, and (ii) a *final* ruling on any one issue could be reversed on appeal. Second, even if there is currently no stay, that could change - *e.g.*, if there is no stay because of dismissal of this bankruptcy case, such dismissal could be vacated and that might reimpose the stay even if there is a lack of adequate protection, or other grounds why the stay should not apply, and therefore the movant will suffer cognizable harm unless the issues are addressed now (Judge Bason regularly vacates dismissals based on stipulations or other good cause). Third, if the motion includes any request for relief as to *past* acts (annulment) or *future* cases (*in rem* relief), those things are still at issue even if there is no *current* automatic stay. See *In re Aheong*, 276 B.R. 233 (9th Cir. BAP 2002). For all of these reasons, the tentative ruling is that it is appropriate to address the following issues.

The tentative ruling is that Movant has established sufficient "cause" to terminate the automatic stay under 11 U.S.C. 362(d)(1) to take all actions contemplated in the motion papers, including those that go beyond merely recovering possession of the property (*e.g.*, to encumber property of the estate by issuing receivership certificates to pay for the cleanup expenses). Such cause is established by the evidence of the subject property's substandard conditions and the attendant risk such conditions pose to the safety and wellbeing of the public.

In other words, Movant's evidence has established *prima facie* "cause" to terminate the automatic stay under 11 U.S.C. 362(d)(1). In response, Debtor fails to provide actual evidence how she could cure all of the numerous problems with the property by the hearing date, let alone enough evidence to overcome Movant's evidence and uncontested allegations about the long history of problems with the subject property that have not been cured.

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CONT...

Susan Jane Bybee

Chapter 13

For example, even if Debtor could find someone on such short notice to start and finish a complete tear down of the unauthorized addition to her house, how is there any assurance that the resulting open area would be patched up, and electrical wires and other matters would be cut back and properly sealed and rendered safe? How could Movant or other affected parties such as the public have any assurance that Debtor had done those things properly without an inspection, which cannot possibly occur in such a short time frame? Debtor's bare assertions that she will remediate everything instantly and in full compliance with the building codes and other applicable law, after many years of failing to do so, is too little, too late.

(3) No relief in other past or present bankruptcy cases

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

(4) Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)

(3).

(5) Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 15, 2021

Hearing Room 1545

10:00 AM

CONT... Susan Jane Bybee

Chapter 13

Party Information

Debtor(s):

Susan Jane Bybee

Represented By
Carl Shaff II

Movant(s):

City of Bellflower

Represented By
Caroline Djang

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 15, 2021

Hearing Room 1545

10:00 AM

2:21-14309 Elias Robert Abu Shanab and Sarah Rhea Abu Shanab

Chapter 13

#7.00 Hrg re: Motion in Individual Case for Order
Imposing a Stay or Continuing the Automatic
Stay as the Court Deems Appropriate

Docket 11

Tentative Ruling:

Grant, subject to the following conditions. Appearances are not required.

After the hearing date this Court will prepare an order and the tentative ruling is to include the following language in that order:

The stay of 11 U.S.C. 362(a) applies subject to the following modifications and conditions:

(1) Service and reconsideration. Any party in interest who was not timely served in accordance with FRBP 7004 (incorporated by FRBP 9014(b)) is hereby granted through 14 days after proper service to seek reconsideration, including retroactive relief (under FRBP 9023 and/or 9024). Any such person (a) may set a hearing on 14 days' notice, (b) may appear by telephone (if arrangements are made per Judge Bason's posted procedures), and (c) may present all arguments orally at the hearing (*i.e.*, no written argument is required). If written arguments appear necessary then this court will set a briefing schedule at the hearing.

(2) Reasons. (a) It appears appropriate to impose the automatic stay, and to impose it as to all persons rather than just as to selected persons, because one purpose of the automatic stay is to preventing a "race to collect" that could unfairly advantage some creditors at the expense of others. (b) To prevent possible abuse, this Court provides the foregoing simple process for reconsideration.

(3) Very limited ruling. This Court's tentative ruling to grant the foregoing relief is solely for purposes of this motion, and is not intended to have any binding effect with respect to any future assertions by any party in interest regarding the existence or lack of existence of good faith in any other context.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, June 15, 2021

Hearing Room 1545

10:00 AM

CONT... Elias Robert Abu Shanab and Sarah Rhea Abu Shanab

Chapter 13

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Elias Robert Abu Shanab

Represented By
Heather J Canning

Joint Debtor(s):

Sarah Rhea Abu Shanab

Represented By
Heather J Canning

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 15, 2021

Hearing Room 1545

10:00 AM

2:21-12763 Miguel Mota

Chapter 13

#8.00 Hrg re: Motion in Individual Case for Order
Imposing a Stay or Continuing the Automatic
Stay as the Court Deems Appropriate

Docket 16

Tentative Ruling:

Deny. Appearances required to address whether the case should be dismissed (see Judge Bason's Procedures, posted at www.cacb.uscourts.gov, then search for "362(c)(3)").

Proposed order: Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Reasons: The motion was not timely set for hearing in accordance with 11 U.S.C. 362(c)(3)(B) (providing that "on the motion of a party in interest for continuation of the automatic stay and upon notice and a hearing, the court may extend the stay in particular cases as to any or all creditors . . . after notice and a hearing completed before the expiration of the 30 day period [after the petition date, *i.e.*, 4/6/21 + 30 days]." (emphasis added)).

Note: The automatic stay has terminated both as to Debtor *in personam* and as to property of Debtor. See *In re Reswick*, 446 B.R. 362 (9th Cir. BAP 2011) (if automatic stay is not continued beyond 30 days then it terminates in *all* aspects, *i.e.*, not only as to the debtor individually but as to all parties and the bankruptcy estate). See *In re Hernandez*, case no. 2:11-bk-53730-NB, docket #40 (Memorandum Decision).

No attorney fees: This Court presumes that counsel for the debtor will not charge any fees for the time spent on this motion (because counsel knew or should have known of the earlier case and knew or should have known of the 30 day deadline). If counsel intends to charge any fees then the procedures must be followed to dispute this tentative ruling.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, June 15, 2021

Hearing Room 1545

10:00 AM

CONT... Miguel Mota

Chapter 13

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Miguel Mota

Represented By
Mariano A Alvarez

Movant(s):

Miguel Mota

Represented By
Mariano A Alvarez
Mariano A Alvarez

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 15, 2021

Hearing Room 1545

10:00 AM

2:20-10995 Victoria Marina Almaraz

Chapter 13

#9.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 12/1/20, 2/9/21, 4/6/21

THE BANK OF NEW YORK MELLO TRUST CO
VS
DEBTOR

Docket 40

***** VACATED *** REASON: Voluntary dismissal filed on 4/8/21 [dkt. 55]**

Tentative Ruling:

Party Information

Debtor(s):

Victoria Marina Almaraz

Represented By
Thomas B Ure

Movant(s):

The Bank of New York Mellon Trust

Represented By
Sean C Ferry
Eric P Enciso

Trustee(s):

Kathy A Dockery (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar

Tuesday, June 15, 2021

Hearing Room 1545

10:00 AM

2:19-20769 Trisha Franklin

Chapter 13

#10.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 4/27/21

WELLS FARGO BANK
VS
DEBTOR

Docket 54

*** VACATED *** REASON: APO

Tentative Ruling:

Party Information

Debtor(s):

Trisha Franklin

Represented By
Thomas B Ure

Movant(s):

Wells Fargo Bank

Represented By
Sean C Ferry
Eric P Enciso

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 15, 2021

Hearing Room 1545

10:00 AM

2:19-24202 Olivia Pino

Chapter 13

#11.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 4/27/21

WELLS FARGO BANK
VS
DEBTOR

Docket 34

***** VACATED *** REASON: APO**

Tentative Ruling:

Party Information

Debtor(s):

Olivia Pino

Represented By
James D. Hornbuckle

Movant(s):

Wells Fargo Bank

Represented By
Sean C Ferry
Eric P Enciso

Trustee(s):

Kathy A Dockery (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, June 15, 2021

Hearing Room 1545

10:00 AM

2:19-24202 Olivia Pino

Chapter 13

#12.00 Cont'd hrg re: Motion for relief from stay [PP]
fr. 12/1/20, 2/9/21, 3/9/21

ALLY FINANCIAL
VS
DEBTOR

Docket 29

*** VACATED *** REASON: APO

Tentative Ruling:

Party Information

Debtor(s):

Olivia Pino

Represented By
James D. Hornbuckle

Movant(s):

Ally Financial

Represented By
Sean C Ferry

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 15, 2021

Hearing Room 1545

10:00 AM

2:17-16752 JULIE CHAVEZ

Chapter 13

#13.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 5/4/21

WELLS FARGO BANK, N.A.
vs
DEBTOR

Docket 51

*** VACATED *** REASON: Voluntary dismissal of motion filed
06/14/2021 (dkt. 56)

Tentative Ruling:

Party Information

Debtor(s):

JULIE CHAVEZ

Represented By
Kourosh M Pourmorady

Movant(s):

Wells Fargo Bank, N.A.

Represented By
Sean C Ferry
Theron S Covey
Eric P Enciso

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, June 15, 2021

Hearing Room 1545

10:00 AM

2:17-17236 Regina Sanders

Chapter 13

#14.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 4/6/21, 5/4/21

U.S. BANK NATIONAL ASSOC
vs
DEBTOR

Docket 82

Tentative Ruling:

Tentative Ruling for 6/15/21:
Appearances required.

This matter has been continued a number of times. There is no tentative ruling but Movant should be prepared to address the status of this motion.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 5/4/21:
Appearances required.

Based on the arguments and representations of Movant at the hearing on 4/6/21 this Court continued this matter to this date to allow time for the parties to negotiate an adequate protection stipulation. There is no tentative ruling.

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Los Angeles
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Tuesday, June 15, 2021

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10:00 AM

CONT... Regina Sanders

Chapter 13

The parties should be prepared to provide an update on the status of those negotiations, if any.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 4/6/21:
Appearances are not required.

Grant as set forth below.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so

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CONT... Regina Sanders

Chapter 13

the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Regina Sanders

Represented By
Thomas B Ure

Movant(s):

U.S. BANK NATIONAL

Represented By
Sean C Ferry
Eric P Enciso

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 15, 2021

Hearing Room 1545

11:00 AM

2:21-12223 All Star Auto Parts, Inc.

Chapter 7

#1.00 HearingRE: [17] Motion For Sale of Property of the Estate under Section 363(b) - No Fee -Trustee's Notice of Motion and Motion to: (1) Authorize Sale of Substantially All of the Debtor's Assets at Public Auction Free and Clear of Liens; (2) Authorize the Employment of Van Horn Auctions Appraisal Group, LLC, to Conduct Such Sale; and (3) Approve Compromise Regarding Such Sale Between the Trustee and Fifth Alfred Street Development, LLC; and (4) Authorize Abandonment of Remaining Unsold Assets; Memorandum of Points and Authorities, Declarations of Brad D. Krasnoff and Scott Van Horn, and Request for Judicial Notice in Support Thereof; proof of service (Israel, Eric)

Docket 17

Tentative Ruling:

Appearances are not required.

Grant.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Hearing Room 1545

11:00 AM

CONT... All Star Auto Parts, Inc.

Chapter 7

Debtor(s):

All Star Auto Parts, Inc.

Represented By
Kevin Tang

Trustee(s):

Brad D Krasnoff (TR)

Represented By
Eric P Israel

**United States Bankruptcy Court
Central District of California
Los Angeles
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Courtroom 1545 Calendar**

Tuesday, June 15, 2021

Hearing Room 1545

11:00 AM

2:15-23688 Boaz Tribelsky

Chapter 13

#2.00 Status conference re: Debtor's Second Renewed Motion for Order To Show Cause as to Why Specialized Loan Servicing LLC Should Not be Held in Contempt for Violation of Debtor's Discharge Injunction fr. 4/6/21

Docket 140

Tentative Ruling:

Tentative Ruling for 6/15/21:

Continue for further briefing as set forth below. Appearances are not required on 6/15/21.

This Court is puzzled by the parties' failure to arrive at an agreed statement that can be submitted to any prospective lender setting forth the facts. Such basic facts as the date and dollar amount of each payment, and whether any payments received in 2020 were late, should be independently verifiable and not subject to any reasonable dispute. But it appears that the parties have been unable to agree on any such statement, so the tentative ruling is to set a schedule for briefs and evidence and a continued hearing on whether to issue a finding and conclusion of contempt of court and impose sanctions.

(1) Background

There appear to be two disputes. One, involving escrow payments and one purportedly late interest payment, appears to be irrelevant, but might be causing confusion. The second, involving timely payments that have been reported as late payments, appears to be the real focus of the parties' disputes.

(a) Escrow payments and one purportedly late interest payment

A long-running dispute apparently involved Debtor's failure to pay monthly amounts into escrow accounts - Debtor instead appears to have paid insurance and real estate taxes directly. The parties' papers never explained this in sufficient detail, but this Court arrived at that conclusion based on its

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11:00 AM

CONT... **Boaz Tribelsky**

Chapter 13

own detailed analysis. See Tentative Rulings for 3/20/18 and 5/8/18 hearings (reproduced below).

In any event, the dispute was settled by a 2018 stipulation providing that the loan would be "de-escrowed for taxes and insurance, commencing with the February 1, 2017 monthly installment" and that Debtor would receive a small refund (\$1,965.66) and a waiver of some late charges (\$1,849.30). See Stipulation between Debtor and Wells Fargo Bank, N.A., as servicer for U.S. Bank National Association, as Trustee Prime Mortgage Trust, Mortgage Pass-Through Certificates, Series 2006-2 ("US Bank"), attached as Ex.P to Motion for OSC (dkt. 140) (at PDF pp. 133-37) *and* Order thereon (Ex.Q, at PDF pp.138-39). Specialized's own Response (Ex.C) to the Chapter 13 Trustee's notice that Debtor had cured all defaults (Ex.B) appears to show that Debtor is current. See Ex.B&C to Motion for OSC (dkt.140, at PDF pp.29-33).

Now Debtor reports that that he has been wrongfully accused by US Bank's current servicer, Specialized Loan Servicing LLC ("Specialized") of being "in arrears for \$2828.69 due to an escrow shortage. See Exhibit K to Debtor's declaration." Motion for OSC (dkt. 140), p.3:10-13. But Exhibit K (dkt.140, at PDF pp.109-110) says nothing about any escrow shortfall - to the contrary, it states:

The amount of the debt as of 12/08/2020 is \$404,193.45. For informational purposes, this amount is comprised of the following: unpaid principal of \$401,364.76, deferred balance total of \$0.00, uncollected interest of \$2,828.69, **escrow balance/advances of \$0.00**, and outstanding fees of \$0.00." [Dkt.140, Ex.K, at PDF p.109, emphasis added.]

As for the above-referenced "uncollected interest of \$2,828.69," Specialized explained on 2/1/21 that the funds were received and applied to the account on 12/9/20. See Ex.H to Motion for OSC (dkt.140) at PDF p.44. Debtor has not pointed to evidence that this is incorrect, so perhaps this is no longer an issue.

(b) Debtor's apparently timely payments that have been wrongly reported as late payments

Debtor appears to be on firmer ground when he alleges that he applied for a home refinance in 2021 but that his attempted refinance was denied for the sole reason that Specialized reported that he was "**9 times delinquent in**

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11:00 AM

CONT... **Boaz Tribelsky**

Chapter 13

2020," citing Exhibit E to his Motion for OSC (dkt. 140), p.3:16-22 (emphasis added). That is supported by three types of evidence.

First, Exhibit E (dkt.140 at PDF p.36) is a Verification of Mortgage from Specialized to Debtor dated "01/06/21" asserting that "last year" (2020) Debtor was delinquent 9 times, from 15 days to over 90 days. Second, Debtor's Exhibit F is a letter from Right Choice Mortgage stating that it "is unable to refinance Mr Tribelsky for the sole reason that upon receiving the Verification of Mortgage from [Specialized] it came back with the following information [tracking 8 of the 9 purported delinquent payments] (see attached statement)." Ex.F to Motion for OSC (dkt.140, at PDF p.41). Third, attached as Exhibit I is Debtor's correspondence with Specialized, dated 1/22/21, enclosing evidence appearing to show that Debtor made all of his 2020 mortgage payments timely. Ex.I to Motion for OSC (dkt.140) at PDF pp.52-79.

Debtor also has provided evidence that Specialized has not addressed these allegations. For example, Specialized's letter dated 2/1/21 states, "We have researched your account and our records indicate that the interest described in your dispute [the one purportedly late interest payment that apparently was cured with the payment received on 12/9/20] was not in error." Ex.H to Motion for OSC (dkt.140, at PDF p.44). Specialized's letter does not address the (apparently erroneous) report of 9 delinquencies in 2020. See *also* Ex.J (2/9/21 letter from Specialized to Debtor) (dkt.140, at PDF p.80).

In sum, Debtor has presented *prima facie* evidence that Specialized was reporting delinquencies that did not actually exist. On that basis this Court granted Debtor's motion for issuance of an OSC.

(2) Current status

On 4/7/21 this Court issued its "Order to Show Cause as to Why Specialized Loan Servicing LLC Should Not be Held in Contempt For Violation of Debtor's Discharge Injunction" (dkt. 146, the "OSC") which set a 6/14/21 deadline for the parties to complete discovery. Debtor's status report (dkt. 148) states that the parties have not been able to settle their disputes and that Debtor has propounded, and Specialized has responded to, Debtor's interrogatories, requests for admission, and requests for documents.

The tentative ruling is to set a **deadline of 6/25/21** for Specialized to file and serve its response to the OSC, including declarations and evidence (if any) to rebut Debtor's *prima facie* showing that Specialized has violated the

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CONT... Boaz Tribelsky

Chapter 13

discharge injunction of 11 U.S.C. 524, is in contempt of court, and is subject to sanctions. The tentative ruling is to set a **deadline of 7/9/21** for Debtor's reply, and a non-evidentiary hearing on **7/20/21 at 11:00 a.m.**, at which time this Court will determine if there are any matters that require an evidentiary hearing or other procedures.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 4/6/21:
Appearances required.

There is no tentative ruling. The parties should be prepared to address the issues raised in Debtor's motion (dkt. 140) and this Court's order setting this hearing (dkt. 142), including (a) whether they have met and conferred about a possible resolution of their dispute(s) and (b) whether this Court should (i) set a briefing schedule and an evidentiary hearing re contempt/sanctions, (ii) order the parties to mandatory mediation and/or (iii) order some other appropriate disposition.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's

**United States Bankruptcy Court
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11:00 AM

CONT... Boaz Tribelsky

Chapter 13

COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

**COPY OF TENTATIVE RULINGS ON RELATED MOTION
(dkt. 58) FOR RELIEF FROM AUTOMATIC STAY
Tentative Ruling for 5/8/18:
Appearances required.**

At the hearing on 3/20/18, this Court continued the matter to this date and directed (1) debtor to commence making higher payments to Movant in the amount of \$4,079.99 (\$3,698.51 P&I + \$381.48 escrow); and (2) set deadlines for (a) Movant to file a supplemental declaration regarding recalculation of the appropriate monthly escrow fund payment, and (b) debtor to file a response.

This Court has reviewed Movant's supplemental declaration (dkt. 68) and debtor's response (dkt. 72). The parties should be prepared to address whether they have reached any resolution regarding debtor's contention that Movant has not taken into account any credits received from hazard insurance and county taxes.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/20/18:

Grant in part, deny in part, and continue to 4/10/17 at 10:00 a.m., all as set forth below. Appearances required.

(1) Background

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CONT...

Boaz Tribelsky

Chapter 13

The parties appear to agree that the debtor has made monthly payments of \$3,698.51 (the normal amortizing principal and interest payments). Those payments were due on the first day of each month, and generally were paid a few days later. See dkt. 8, Ex.5 (movant's spreadsheet) and dkt. 61, Ex.A, & dkt. 62) (debtor's copies of cashier checks). The motion lists some late charges, attorney fees, and other items (dkt. 58, p.7, para.8), but those do not appear to have been included in the movant's spreadsheet (dkt. 58, Ex.5, at PDF pp.30-33), perhaps because the listed amounts are for prepetition periods. In any event, the core of the parties' disagreement appears to involve an escrow impound account to pay real estate taxes and property insurance premiums.

(2) The debtor's assertions of "improper" escrow impounds are unpersuasive

The debtor's declaration (dkt. 61, Tribelsky Decl., para.9, at PDF p.7:24-28) asserts that the impound is "improper" and that the debtor has "struggled with [movant] Wells Fargo to have them end these impounds." The debtor also declares (dkt. 61, at PDF p.7:16-22) that there was an "improper increase" in monthly payments starting on March 1, 2016, which he believes was due to an escrow impound for taxes and insurance.

The debtor fails to explain why there is anything "improper" about requiring him to pay into an escrow for real estate taxes and insurance. The loan documents (dkt. 8, Ex.1, para.3, pp.4-5) require the debtor to make escrow payments for taxes and insurance premiums on the same date at the payments of principal and interest.

It is true that the movant apparently had not required escrow payments for some unspecified period prior to March 1, 2016. See Notice of Mortgage Payment Change (Official Form 410S1) (the "Change Notice"), filed 1/19/16 on the Claims Register, at PDF pp.5-6 (requiring monthly payments of \$351.96 commencing March 1, 2016). But if the debtor is asserting some sort of waiver that argument is unpersuasive. The Deed of Trust provides (dkt. 58, Ex.1, para.3, pp.4-5) that although the movant may waive the escrow requirement, the movant "may revoke the waiver as to any or all Escrow Items at any time" and then the debtor "shall pay" all escrow amounts.

The debtor apparently just ignored his obligation to pay escrow impound amounts. Instead he has presented evidence (dkt. 61, Ex.B, at PDF pp.38 et seq.) that he paid taxes directly to the tax authorities and insurance premiums directly to the insurers.

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Chapter 13

It appears that the movant must have credited the debtor's direct payments of taxes and insurance, because its Change Notice filed on 10/18/16 lists a low estimated "Starting balance" of \$861.27 as of December 2016 (although that apparently assumes that the debtor would start making his required escrow payments). In any event, the movant's Change Notice is *prima facie* evidence of the validity of this underlying calculation in support of its claim, and the debtor has not established that there is anything wrong with the movant's accounting included in its Change Notice filed on 10/18/16.

Similarly, by the time of the next Change Notice it appears that the movant must have once again credited the debtor's direct payments of taxes and insurance because, the escrow account projections ("Part 3") project a required "Starting balance" for March 2018 of only \$762.96 (although, again, this appears to assume that the debtor will have made certain payments into the escrow account by the start of March 2018). In any event, the debtor has not shown that there is anything wrong with this supporting underlying documentation of the movant's claim.

(3) Despite the deficiencies in the debtor's arguments and evidence, it appears that the motion itself fails to account for the debtor's direct payments of real estate taxes and insurance

The motion asserts (dkt. 58, p.9, para.12.c.) that the debtor was behind three payments of \$4,053.45, for a total of \$12,160.35, less a suspense account balance of \$1,166.12, for a total of \$10,994.23 as of approximately 12/12/18 (when the declaration in support of the motion was signed). But unlike the Change Notices the motion does not appear to give the debtor credit for direct payments of real estate taxes and insurance.

Based on the spreadsheet attached to the motion as Exhibit 5 (dkt. 58, at PDF pp.30-33), the alleged shortfall of \$10,994.23 appears to be the cumulative sum of all the shortfalls between the \$3,698.51 that the debtor was paying each month (the normal amortizing principal and interest payments) and the higher monthly amounts that he should have been paying in order to fund the escrow account. There are no entries in the spreadsheet that appear to reflect the debtor's direct payments of taxes and insurance.

Nor is it possible to rely on the latest Change Notice to determine precisely what the debtor owes. At first glance that Change Notice would appear to have current information because it was filed on 3/5/18, but it provides only a projected shortfall of \$762.96 in the escrow account as of

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Chapter 13

March 2018 (3/5/18 Charge Notice at PDF p.6, Part 3, end of first line). That projection probably is too low, because it appears to assume that part of the debtor's monthly payment is credited to the escrow account in January of 2018, and that the debtor will make some very substantial payments in February and March of 2018, and that the real estate taxes that are due in March of 2018 will be paid out of those escrow payments (*see id.*, Part 4, 2d and 5th columns, rows for January, February, and March, including credits of \$1,281.90, \$9,810.75, and \$354.94, and debit of \$1,612.38).

The bottom line is that although the movant has not established precisely what the debtor owes, it has established cause for some sort of relief from the automatic stay - namely, there is "cause" within the meaning of 11 U.S.C. 362(d)(1) in that the debtor has failed for many months to comply with his obligations to fund the escrow account, which exposes the movant to the risk that it will have to bear the cost if the debtor fails to pay real estate taxes or insurance (especially if the property were to be damaged or completely burn down). The required adequate protection is for the debtor to cure the deficiency in the escrow account over a reasonable period of time.

The latest Change Notice (filed 3/5/18) can be used as a starting point. It requires that the debtor pay \$381.48 per month into the escrow account, in addition to his regular monthly payments of \$3,698.51 on account of principal and interest, for total monthly payments of \$4,079.99. The escrow payments may have to be adjusted (as noted above, the Change Notice appears to assume that the debtor will have made some very substantial payments by the start of March 2018), but this Court can set a schedule for such adjustment (see below).

(4) Conclusion

The tentative ruling is to set a deadline of 4/1/18 for the debtor (a) to file evidence that he has paid the March 2018 real estate tax payment directly to the taxing authority and (b) to commence making monthly payments of \$381.48 into the escrow account, in addition to his regular monthly payments of \$3,698.51 on account of principal and interest, for total monthly payments of \$4,079.99.

In addition, the tentative ruling is to set a deadline of 4/1/18 for the movant to file a supplemental declaration showing a calculation of the required escrow balance as of 5/1/18, the required monthly payments for the debtor to cure the deficiency in that escrow balance, and the resulting new

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Chapter 13

total monthly payment that the debtor will have to pay on 5/1/18 and each month thereafter.

Finally, the tentative ruling is to set a continued hearing at the date and time set forth at the start of this tentative ruling, so that the parties and this Court can address what to do if the debtor disputes the movant's calculations.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Boaz Tribelsky

Represented By
Michael F Chekian

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:20-15862 Jose Luis Almendariz
Adv#: 2:20-01644 McLees v. Almendariz

Chapter 13

#3.00 Cont'd Status Conference re: Complaint for Determination of Non-Dischargeability of Debt Pursuant to 11 U.S.C. Sections 523(a)(2) and (a)(4) fr. 12/22/20, 03/02/21, 4/6/21

Docket 1

Tentative Ruling:

Tentative Ruling for 6/15/21:
Appearances required.

Current issues

(a) Status of settlement efforts

The parties should be prepared to provide an update on the status of the settlement efforts.

This Court has reviewed the parties' joint status report (adv.dkt. 35) and the other filed documents and records in this adversary proceeding.

(A) Standard requirements

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (adv. dkt. 22).

(2) Mediation

On 12/21/20 this Court entered an order assigning the matter to mediation (see adv. dkt. 24).

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Chapter 13

(3) Deadlines

This adversary proceeding has been pending since 10/6/20.

[The deadlines have been memorialized in this Court's scheduling order (adv.dkt.26), except for the following, which need no written order.]

Joint Status Report: 8/3/21

Continued status conference: 8/17/21 at 11:00 a.m.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Jose Luis Almendariz

Represented By
Glenn Ward Calsada

Defendant(s):

Jose Luis Almendariz

Represented By
Glenn Ward Calsada

Plaintiff(s):

Brian McLees

Represented By
Dawn M Coulson

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CONT... Jose Luis Almendariz

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:20-19466 Moises Sanchez Portillo

Chapter 7

Adv#: 2:21-01017 IDT Payment Services, Inc. v. Sanchez Portillo

#4.00 Cont'd status conference re: Complaint to determine non-dischargeability of debt [11 U.S.C. section 523(a)(4) and (6)]
fr. 3/23/21

Docket 1

Tentative Ruling:

Tentative Ruling for 6/15/21:

Continue as set forth below to allow time for the parties to participate in mediation; but with Plaintiff meanwhile to lodge a proposed order as set forth in part "(B)(3)" below. Appearances are not required on 6/15/21.

(A) Current issues

This Court has reviewed the parties' joint status report (adv. dkt. 12) and the other filed documents and records in this adversary proceeding.

(B) Standard requirements

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (adv. dkt. 4).

(2) Mediation

On 4/8/21 this Court entered an order assigning the matter to mediation (see adv. dkt. 9).

(3) Deadlines

This adversary proceeding has been pending since 1/21/21. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed

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CONT... **Moises Sanchez Portillo**

Chapter 7

order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Joinder of parties/amendment of pleadings-deadline: 9/14/21

Discovery cutoff (for completion of discovery): 9/28/21

Expert(s) - deadline for reports: N/A

Expert(s) - discovery cutoff (if different from above): N/A

Dispositive motions to be heard no later than: 11/16/21

Joint Status Report: 11/2/21

Continued status conference: 11/16/21 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers, including direct testimony by declaration unless excused: TBD

Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 3/23/21:

Appearances required.

(A) Current issues

This Court has reviewed the parties' joint status report (adv.dkt. 8) and the other filed documents and records in this adversary proceeding.

(B) Standard requirements

The following are Judge Bason's standard requirements for status

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CONT... Moises Sanchez Portillo

Chapter 7

conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority

The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this Bankruptcy Court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. See generally *Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). See generally *In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation

Is there is any reason why this Court should not order the parties to mediation before one of the volunteer mediators (*not* a Bankruptcy Judge), and meanwhile set the deadlines set forth below? The tentative ruling is to set a **deadline of 4/6/21** for the parties to lodge a proposed mediation order (the parties are directed to use the time between now and that deadline to find a mutually agreeable mediator whose schedule can accommodate the needs of this matter; and if the parties cannot even agree on a mediator they may lodge separate orders and Judge Bason will chose among them, or issue his own order).

(3) Deadlines

This adversary proceeding has been pending since 1/21/21. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative

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Chapter 7

ruling or otherwise memorializing the following.

Joinder of parties/amendment of pleadings-deadline: 9/14/21

Discovery cutoff (for completion of discovery): 9/28/21

Expert(s) - deadline for reports: N/A

Expert(s) - discovery cutoff (if different from above): N/A

Dispositive motions to be heard no later than: 11/16/21

Joint Status Report: 6/1/21

Continued status conference: 6/15/21 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers, including direct testimony by declaration unless excused: TBD

Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Moises Sanchez Portillo

Represented By
Raymond Perez

Defendant(s):

Moises Sanchez Portillo

Pro Se

Plaintiff(s):

IDT Payment Services, Inc.

Represented By

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CONT... Moises Sanchez Portillo

Chapter 7

Alan J Watson

Trustee(s):

Heide Kurtz (TR)

Pro Se

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1:00 PM

2:21-12517 Law Offices of Brian D. Witzer

Chapter 11

#1.00 Hrg re: Motion for relief from stay [NA]

LAW OFFICES OF BRIAN D. WITZER
vs
DEBTOR

Docket 100

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 2, 6/15/21 at 1:00 p.m.).

Party Information

Debtor(s):

Law Offices of Brian D. Witzer

Represented By
Michael Jay Berger

Movant(s):

Law Offices of Brian D. Witzer

Represented By
Michael Jay Berger

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2:21-12517 Law Offices of Brian D. Witzer

Chapter 11

#2.00 Cont'd Status Conference re: Chapter 11 Case
fr. 3/31/21, 4/27/21, 5/11/21

Docket 1

Tentative Ruling:

Tentative Ruling for 6/15/21:

Continue as set forth below. Appearances are not required on 6/15/21.

(1) Current issues

(a) Motion of Debtor For Relief From The Automatic Stay (the "R/S Motion," dkt. 100), Opposition of Pravati Credit Fund III LP ("Pravati") (dkt. 109-111), Reply of Debtor (dkt. 117)

Although the tentative ruling is that Debtor's reply (dkt. 110) adequately addresses the issues raised in Pravati's opposition papers (dkt. 109-111), nevertheless it would make no sense to grant relief from the automatic stay to pursue litigation if Debtor cannot hire special counsel to represent Debtor in that litigation. Accordingly, the tentative ruling is to continue Debtor's R/S Motion to the same time as the hearing on Pravati's objection to Debtor's application to employ special counsel (which is the same time as the continued Status Conference, set forth below).

(2) Dates/procedures. This case was filed on 3/29/21.

(a) Bar date: 7/6/21.

(b) Procedures order: dkt. 4 (service cured, see dkt. 8, 82)

(c) Plan/Disclosure Statement: TBD

(d) Continued status conference: 6/29/21 at 1:00 p.m., no written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

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CONT... Law Offices of Brian D. Witzer

Chapter 11

are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Law Offices of Brian D. Witzer

Represented By
Michael Jay Berger

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2:21-12517 Law Offices of Brian D. Witzer

Chapter 11

#2.10 Hrg re: Application to Employ Bendon & Serlin, A Limited Liability Partnership as Special Counsel Statement of Disinterestedness

Docket 98

***** VACATED *** REASON: Cont'd to 6/29/21 at 1:00 p.m.**

Tentative Ruling:

Party Information

Debtor(s):

Law Offices of Brian D. Witzer

Represented By
Michael Jay Berger

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2:21-11720 Jose Angel Rosales

Chapter 11

#3.00 Hrg re: Motion in Individual Ch 11 Case for Order Employing Professional (LBR 2014-1): Mark Brifman/Brifman Law Corp. as Special Litigation Counsel

Docket 45

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 4, 6/15/21 at 1:00 p.m.).

Party Information

Debtor(s):

Jose Angel Rosales

Represented By
Nancy Korompis

Movant(s):

Jose Angel Rosales

Represented By
Nancy Korompis
Nancy Korompis
Nancy Korompis
Nancy Korompis
Nancy Korompis
Nancy Korompis

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2:21-11720 Jose Angel Rosales

Chapter 11

#4.00 Cont'd Status Conference re: Chapter 11 Case
fr. 03/23/21, 3/31/21, 4/27/21, 5/11/21

Docket 1

Tentative Ruling:

Tentative Ruling for 6/15/21:

Continue as set forth below. Appearances are not required on 6/15/21.

(1) Current issues

(A) Debtor's Application to employ special litigation counsel (dkt. 45, "Employment Application"), Order setting hearing on Employment Application (dkt. 67), Notice of hearing (dkt. 71), late Response and Application for relief from deadline (dkt. 76, 77)

Debtor's very belated response (dkt. 76) refers vaguely to "conflicting trial, vacation/holiday and travel schedules" that "delayed" the ability of Debtor's general bankruptcy counsel and proposed special counsel filing the response due 6/1/21 until the night of 6/11/21. Dkt.77, p.5:18-24. That is too vague an excuse, and counsel for Debtor is cautioned that in future she must request any extension *before* the deadline has expired, or alternatively provide an *adequate* excuse for being unable to do so.

Nevertheless, the tentative ruling is to excuse Debtor's non-compliance with this Court' prior deadline and provide Debtor with an opportunity to address the following issues. As this Court understands Debtor's position, he alleges that he entered into a modification of the first deed of trust ("DOT") on his home based on his understanding that the second DOT (a HELOC) had been canceled or otherwise forgiven, and Debtor paid the first DOT for "ten years" in reliance on the absence of the second DOT, but instead the HELOC turns out to be a "zombie" loan. See dkt. 29, p.2, *and* dkt.76, p.3:10-21. While Debtor was paying the first DOT, the second DOT obligation of "approximately \$150,000 grew to nearly \$300,000." *Id.*

Debtor now proposes to spend up to an estimated \$40,000 to attempt to obtain cancellation of some or all of the debt secured by the second DOT. *Id.* On the one hand, that appears to be admirably efficient for this type of litigation, and if the litigation is successful then it could generate a substantial

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CONT... **Jose Angel Rosales**

Chapter 11

net benefit for Debtor.

On the other hand, creditors appear to be the losers in this scenario. Debtor proposes to spend up to \$40,000 or more to litigate undisclosed legal theories that might have zero or minimal chance of success; and even if Debtor succeeds he will gain equity in his home that, presumably, he will seek to exempt. If Debtor's cash flow is used to fund this litigation, it appears that he will have little if anything left over to pay creditors (although it is unclear whether Debtor can obtain more monthly income by increasing his "draw" from his business). See bankruptcy schedules "I" & "J" (dkt.12, pp.23-26, and dkt.46, pp.2-4).

A review of the dollars at issue will illustrate. Debtor's amended bankruptcy schedule "D" lists the value of the home as \$750,000 encumbered by a first DOT of \$420,000 and a second DOT of \$305,000. See dkt.12 at PDF pp.15-16, items 2.3 & 2.4. If, for example, Debtor spends \$40,000 and obtains exempt equity of \$150,000, then creditors will have lost out of \$40,000 and will gain nothing in return.

It is possible that Debtor will propose a chapter 11 plan that adequately discloses the cost/benefit analysis and would share some of the net benefits of any success, or that would otherwise be a suitable use of the bankruptcy system. Such a plan could include full disclosure of the legal theories underlying Debtor's proposed litigation, so that creditors could make their own assessment of the cost/benefit of Debtor's proposed course of action, and if they vote in favor of continuing Debtor's litigation then presumably the plan could be confirmed. Otherwise, Debtor might have to pursue other alternative.

Based on all of the foregoing, the tentative ruling is to continue the hearing on the motion to employ special counsel to 7/20/21 at 1:00 p.m. with a **deadline of 7/6/21** for Debtor either to file (and NOT serve on anyone except the United States Trustee and anyone requesting special notice) a chapter 11 plan and disclosure statement that explains why the proposed litigation is a good idea for creditors to vote for, or alternatively for Debtor to file (and serve on the same persons) a brief and supporting declaration(s) addressing the issues set forth above (in which event the deadline to file a draft plan and disclosure statement would remain at 9/3/21, as previously set by this Court).

(2) Dates/procedures. This case was filed on 3/3/21.

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CONT...

Jose Angel Rosales

Chapter 11

- (a) Bar date: 6/16/21 (dkt. 35; timely served, dkt. 44)
 - (b) Procedures order: dkt.14 (timely served, dkt. 21, amended by dkt. 22)
 - (c) Plan/Disclosure Statement: see above. See the **revised** "Procedures of Judge Bason" (available at www.cacb.uscourts.gov) (search for "Chapter 11: Plan").
 - (d) Continued status conference: 6/29/21 at 1:00 p.m., concurrent with other matters. No written status report required.
- *Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Jose Angel Rosales

Represented By
Nancy Korompis

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 15, 2021

Hearing Room 1545

1:00 PM

2:20-10357 Reijo Kustaa Myllyla

Chapter 11

#5.00 Cont'd Status Conference re: Chapter 11 Case
fr. 02/04/20, 02/18/20, 3/3/20, 4/7/20, 5/12/20,
6/16/20, 7/14/20, 9/1/20, 10/6/20, 11/20/20,
12/22/20, 1/26/21,4/6/21

Docket 6

Tentative Ruling:

**Tentative Ruling for 6/15/21:
Appearances required.**

(1) Current issues

(a) Debtor's anticipated settlement motion in main case (relating to Garcia v. Myllyla, Adv. No. 2:20-01098)

This Court continued the 4/6/21 hearing on this matter to allow the parties an opportunity to complete settlement negotiations and for Debtor to prepare motion under Rule 9019 (Fed. R. Bankr. P.) for any agreed upon settlement. As of the date this tentative ruling was prepared, no such settlement motion has been filed. There is no tentative ruling, but the parties should be prepared to address the status of this adversary proceeding and the bankruptcy case in general.

(b) Monthly Operating Reports ("MORs")

Debtor's recent MORs report that Debtor has not been making credit card payments because those accounts "have been blocked" postpetition. See, e.g., MOR (for 5/21) (dkt.72), at p.1, line 3, & PDF p.5. What does that mean?

How much does Debtor owe on these credit card accounts, and why is the total dollar amount not listed on line 24, with details in an attached Exhibit "E," as required by the instructions on the MOR? See *id.*, p.2, line 24.

Debtor projects negative cash flow in June of \$3,053.85. *Id.*, p.3, line 37. Will Debtor be able to pay the overdue credit card bills, given that Debtor reports only \$4,513.01 of cash on hand at the end of May (*id.*, p.2, line 23)?

This case is nearly a year and a half old, and it appears that Debtor is either currently unable to pay ongoing expenses or is on the verge of being unable to do so. Is Debtor experiencing a "continuing loss to or diminution of

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CONT...

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Chapter 11

the estate and the absence of a reasonable likelihood of rehabilitation," an "unexcused failure to satisfy [the MOR] reporting requirement," or other "cause" for dismissal or conversion of this bankruptcy case? See 11 U.S.C. 1112(b)(1) and (4)(A) & (F).

Given the lack of any activity on the docket in the adversary proceeding or the bankruptcy case, as well as the lack of compliance with the MOR reporting requirements listed above, has Debtor willfully failed to appear on proper prosecution of this case? See 11 U.S.C. 109(g)(1). Should this case be dismissed with a bar against being a debtor in any future bankruptcy case for a period of 180 days? See *id.*

(2) Deadlines/dates. This case was filed on 1/13/20.

(a) Bar date: 5/31/20 (dkt. 27; timely served, dkt. 28).

(b) Procedures order: dkt. 3 (timely served, dkt. 9).

(c) Plan/Disclosure Statement*: TBD

(d) Continued status conference: 7/20/21 at 1:00 p.m., *if* this case is not dismissed. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 1/26/21:

Appearances required.

(1) Current issues

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CONT...

Reijo Kustaa Myllyla

Chapter 11

(a) Successful mediation (adv. dkt. 49)

The parties are directed to address the terms of the settlement (per their status report, adv. dkt. 52), and whether those terms require notice to other creditors and an opportunity for those creditors to object, pursuant to a motion under Rule 9019 (Fed. R. Bankr. P.) filed in the bankruptcy case (not in the adversary proceeding). In any event, the tentative ruling is to take the adversary proceeding matters off calendar, and continue the status conference in the bankruptcy case as set forth below.

(2) Deadlines/dates. This case was filed on 1/13/20.

(a) Bar date: 5/31/20 (dkt. 27; timely served, dkt. 28).

(b) Procedures order: dkt. 3 (timely served, dkt. 9).

(c) Plan/Disclosure Statement*: TBD

(d) Continued status conference: 3/2/21 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Reijo Kustaa Myllyla

Represented By
Byron Z Moldo

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 15, 2021

Hearing Room 1545

1:00 PM

2:20-14175 Tea Station Investment Inc.

Chapter 11

#6.00 Cont'd hrg re: Debtor's Motion Objecting to Proof of Claims of Baodi Zhou, or in the Alternative, Motion to Estimate Claims fr. 04/27/21, 5/4/21

Docket 184

Tentative Ruling:

Tentative Ruling for 6/15/21:

Please see the tentative ruling for the status conference (Calendar No. 7, 6/15/21 at 1:00 p.m.).

Tentative Ruling for 5/4/21:

Please see the tentative ruling for the status conference (Calendar No. 11, 5/4/21 at 1:00 p.m.).

Party Information

Debtor(s):

Tea Station Investment Inc.

Represented By
Leslie A Cohen

Movant(s):

Tea Station Investment Inc.

Represented By
Leslie A Cohen
Leslie A Cohen

Trustee(s):

John-Patrick McGinnis Fritz (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 15, 2021

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1:00 PM

2:20-14175 Tea Station Investment Inc.

Chapter 11

#7.00 Cont'd Status Conference re: Chapter 11 Case
fr. 7/28/20, 9/1/20, 9/15/20, 9/29/20, 12/22/20,
1/26/21, 3/9/21, 4/6/21, 04/27/21, 5/4/21, 6/1/21,

Docket 15

Tentative Ruling:

Tentative Ruling for 6/15/21:

Appearances required.

(1) Current issues

(a) Debtors' Motion Objecting to Proof of Claims of Baodi Zhou, or in the Alternative, Motion to Estimate Claims (the "Claim Objection," dkt. 184), interim Order (dkt. 226), Debtors' Supplement (dkt. 234-37), Claimant Ms. Baodi Zhou's Brief (dkt. 245), Debtors' Reply (dkt. 256-59)

There is no tentative ruling, but the parties are directed to address the issues raised in their papers, especially the following issues. This Court is particularly concerned whether Ms. Zhou has provided sufficient evidence that her own claims satisfy the commonality and typicality requirements for acting as a class representative, assuming without presently deciding that Rule 23 is applicable. See interim Order, dkt.226, Ex.A, at PDF p.7, part "(1)(c)" and *id.* sub-parts "(iii)" & "(iv)."

As Ms. Zhou recognizes, under Rule 23 her individual claims must have questions of law and/or fact in common with other putative class members that "predominate" over any questions affecting only individual members. See *generally* Zhou Brief (dkt.245), pp.28:10-29:6. Ms. Zhou asserts that Debtor Tea Station Investment, Inc. ("Debtor") harmed class members by (1) failing to pay for all hours worked or for overtime due to time rounding and time shaving, and failing to provide accurate wage statements due to such rounding and shaving and purportedly omitting correct employer information, (2) failing to provide compliant meal breaks and pay missed meal break premiums, and (3) failing to provide compliant rest breaks and pay missed rest break period premiums. Zhou Brief (dkt. 245), pp. 10:1–19:2, 21:6–26:13, *and* summary at pp.32:13-34:22. Therefore the issue is whether Ms. Zhou's own claims for those things have sufficient commonality and

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CONT... **Tea Station Investment Inc.**

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typicality of other putative class members' claims.

First, Ms. Zhou's brief does not highlight any specific evidence of her own payroll records, and specific instances in which she asserts rounding, time shaving, missed meal breaks, and missed rest breaks. True, she makes general assertions that might suffice for some issues - *e.g.*, at points her papers appear to assert that she *never* had rest breaks - but this Court remains concerned about the lack of greater specificity, such as allegations that although on day X she worked, say, 11 hours and 11 minutes, her paycheck and Debtor's records only reflected 8.0 hours. *But compare, e.g.*, Debtor's Reply (dkt.256), p.7:3-4 (asserting, without citation to any evidence, that "[e]ven Zhou herself admitted at her deposition that she was always allowed to take a break whenever she requested or chose") (emphasis in original).

Second, Ms. Zhou offers few examples of other employees' specific instances of rounding, time shaving, missed meal breaks, and missed rest breaks, and she appears to make presumptions to fill in the gaps. This issue may also bear on the "numerosity" requirement under Rule 23.

If Ms. Zhou can overcome the foregoing issues, and otherwise qualifies as a class representative against Debtor, then this Court envisions a claim estimation process in which this Debtor would present its own rebuttal analysis and/or specific disputes with Ms. Zhou's choice of data and analysis, and the parties would focus their disputes on calculations not unlike those presented by Ms. Zhou at the end of her brief - *e.g.*, estimating 88 employees, with 1,671 days multiplied by an estimated 11 minutes and 15 seconds per day, to arrive at a claim of \$36,879.48 for "time rounding," etc. See Zhou Brief (dkt.245), pp.33:5-34:22. Each party would be able to present its own data, methodology, and analysis, and challenge the other party's data, methodology, and analysis, in a trial to determine how to estimate the claims.

This Court recognizes that the underlying data, methodology, and analysis might not be as rigorous as they would be if time and money were no object (the "scorched earth" litigation to which this Court previously has referred). See, *e.g.*, Order (dkt.226), Ex.A, at PDF p.6, part "(1)(b)." For example, Ms. Zhou's statistical evidence was prepared not by a statistician or similar expert but by her own counsel. But the tentative ruling is that, given her counsel's apparent experience, this goes to the weight of the evidence, not its admissibility.

Similarly, although Ms. Zhou complains that the "thousands of pages

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Chapter 11

of time and pay records" produced by Debtor (Zhou Brief, dkt. 245, p.16:22) are fractured, incomplete, and otherwise difficult to analyze (*id.*, p.32:16 & attached D. Grimes Decl., pp.2:16–4:28, Ex. 2, Ex. 15), there does not appear to be any evidence that Debtor has intentionally caused any spoliation of records. Ms. Zhou's counsel apparently was able to conduct his statistical analysis based on wage statements and other records for 125 employees provided by Debtor (D. Grimes Decl., dkt. 245, p.5:1–5), and presumably Debtor could use the same data to do its own analysis and/or to challenge Ms. Zhou's analysis.

Again, the foregoing claim estimation process would only apply if Ms. Zhou could overcome the commonality and typicality issues noted above, and if she otherwise could qualify as a class representative. In other words, this Court's discussion of the contemplated claim estimation process is only included for completeness, and should not be interpreted as any presumption that Ms. Zhou can assert claims for the class she seeks to represent.

Note: As for any claims by employees of Debtor's affiliates, the tentative ruling is that this issue is premature. Ms. Zhou only briefly asserts a reservation of rights, arguing that "each corporate entity is managed by the same group of three individuals – Tea Station founder Yu-Liang 'Jimmy' Huang, his wife Teresa Pan, and lieutenant Chi-Fu 'Abraham' Kao." Zhou Brief (dkt.245), p.8:11-13. But this Court has issued an order (dkt.226) limiting claims at this stage to Debtor, and the tentative ruling is that unless and until Ms. Zhou can establish claims against Debtor it would be premature to address potential claims against Debtor's affiliates.

Finally, the parties are directed to address what further deadlines or procedures to establish, if this Court does not issue a final ruling on Debtor's Claim Objection at this hearing. The tentative ruling is that any continued hearing on this Claim Objection would be contemporaneous with the continued Status Conference (see below).

(2) Dates/procedures. This case was filed on 5/4/20 and converted from chapter 7 to chapter 11 on 7/1/20 (dkt.17). The petition was amended to elect Subchapter V on 7/14/20 (dkt.27). On 9/4/20 this Court ordered joint administration with affiliated debtors (dkt.64).

(a) Bar date: (i) Investment 9/9/20 (dkt. 40; timely served, dkt. 43);
Affiliated Debtors 11/10/20.

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- (b) Procedures order: dkt.18 (timely served, dkt.20) (also timely served in each jointly administered case).
- (c) Plan (dkt. 137): hearing TBD.
- (d) Continued status conference: 7/20/21 at 1:00 p.m. No written status report required.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Tea Station Investment Inc.

Represented By
Leslie A Cohen

Movant(s):

Tea Station Investment Inc.

Represented By
Leslie A Cohen
Leslie A Cohen

Trustee(s):

John-Patrick McGinnis Fritz (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1575 Calendar**

Tuesday, June 15, 2021

Hearing Room 1575

1:00 PM

2:20-15954 John Martin Kennedy

Chapter 11

#8.00 Cont'd hrg re: Objection to Claim Number 2 Filed by Yunuen Campos; and Motion to (1) Determine the Amount of the Claim of Yunuen Campos Pursuant to Bankruptcy Code § 506(a) and FRBP 3012, or (2) in the Alternative Motion to Estimate the Claim of Yunuen Campos fr. 3/23/21, 4/27/21, 5/4/21

Docket 257

Tentative Ruling:

Tentative Ruling for 6/15/21:

Please see the tentative ruling for the status conference (Calendar No. 9, 6/15/21 at 1:00 p.m.).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

John Martin Kennedy

Represented By

Sandford L. Frey

Dennette A Mulvaney

Movant(s):

John Martin Kennedy

Represented By

Sandford L. Frey

Dennette A Mulvaney

**United States Bankruptcy Court
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1:00 PM

2:20-15954 John Martin Kennedy

Chapter 11

#9.00 Cont'd Status Conference re: Chapter 11 Case
fr. 7/14/20, 7/28/20, 8/18/20, 9/15/20, 9/29/20,
10/27/20, 11/10/20, 12/1/20, 12/8/20, 12/22/20,
01/26/21,3/23/21, 4/6/21, 4/27/21, 5/4/21

Docket 1

Tentative Ruling:

**Tentative Ruling for 6/15/21:
Appearances required.**

(1) Current issues

(a) Background

Notices of appeal ("NOA") have been filed by creditor Ms. Campos
from:

- (i) this Court's memorandum decision conditionally permitting Debtor to cure defaults and "assume" his agreement with Ms. Campos, embodied in their mediation term sheet ("Assumption Memdispo," dkt. 121; NOA, dkt. 147); *see also* Order re same, dkt.144; *and* Status Report, dkt. 274, p.2:12-19 (reporting that the BAP has determined that this order is final and appealable);
- (ii) this Court's order sustaining in part and continuing in part Debtor's objection to Ms. Campos' claim ("Interim Claim Order," dkt. 277; NOA, dkt. 301) (*see also* dkt. 304, BAP Clerk's Order Re Finality); and
- (iii) this Court's order confirming Debtor's chapter 11 plan, which includes the assumption of the mediation term sheet ("Confirmation Order," dkt. 352; NOA, dkt. 360).

This Court also issued an order (dkt. 351) (x) denying Ms. Campos' motion for a stay pending appeal, but (y) providing a brief stay through 6/2/21 on this Court's own motion. The docket does not reflect any further stay by any appellate court, but Debtor has filed a "Notice Of Brief Delay In Occurrence Of Effective Date [of the confirmed Plan, etc.]" (dkt. 359).

The parties have not briefed the scope of this Bankruptcy Court's jurisdiction in view of the pending appeals. In general, this Bankruptcy

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Court's understanding is that: it is deprived of jurisdiction over any matters as to which any appellate court is exercising jurisdiction; but a NOA filed with respect to an interlocutory order does not transfer jurisdiction unless and until the appellate court grants leave to appeal; and in the absence of a stay pending appeal this Bankruptcy Court retains jurisdiction to implement or enforce its existing orders, as well as jurisdiction over all other matters in the bankruptcy case. *See generally, e.g., Nascimento v. Dummer*, 508 F.3d 905, 908 (9th Cir. 2007) ("When a Notice of Appeal is defective in that it refers to a non-appealable interlocutory order, it does not transfer jurisdiction to the appellate court, and so the ordinary rule that the [lower] court cannot act until the mandate has issued on the appeal does not apply.") (citation omitted); *In re Sherman*, 491 F.3d 948, 967 (9th Cir. 2007) ("The timely filing of a notice of appeal to either a district court or bankruptcy appellate panel will typically divest a bankruptcy court of jurisdiction over those aspects of the case involved in the appeal" but not on any other issues in the case, and even with respect to the order or judgment on appeal the bankruptcy court retains jurisdiction "to implement or enforce the judgment or order, although it may not alter or expand upon the judgment"; and "[i]f a party wants to stay all of the proceedings in bankruptcy court while an appeal is pending, it must file a motion for a stay.") (citations and internal quotation marks omitted).

In addition, now that the applicable rules have been augmented with a rule concerning "indicative rulings" (renumbered Rule 8008, Fed. R. Bankr. P.), this Bankruptcy Court is authorized to do several things notwithstanding any pending appeal. Specifically, with respect to a motion as to which this Bankruptcy Court "lacks authority to grant because of an appeal," it may "(1) defer considering the motion; (2) deny the motion; or (3) state that the court would grant the motion if the court where the appeal is pending remands for that purpose, or state that the motion raises a substantial issue."

Based on this Bankruptcy Court's understanding of the matters on appeal - and in the absence of anything on the docket suggesting otherwise - the tentative ruling is that this Bankruptcy Court has jurisdiction to address the issues set forth below. In the alternative, the tentative ruling is that this Bankruptcy Court has jurisdiction to issue indicative rulings on the issues set forth below.

(b) Debtor's objection to Claim 2 filed by Yunuen Campos (dkt. 257), Ms. Campos' opposition (dkt. 261), Debtor's reply (dkt. 266), Interim Claim

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CONT... **John Martin Kennedy**

Chapter 11

Order (dkt. 277), NOA (dkt. 301)

This Court's Interim Claim Order (dkt. 277) limited Ms. Campos' claim to what the parties agreed in their mediation term sheet, minus a \$60,000.00 setoff amount, for a **net claim of \$751,856.36, subject to minor accounting issues** noted below. That order also **reserved for future determination**, in a presently-stayed adversary proceeding (adv. no. 2:20-ap-01626-NB, adv. dkt. 10), whether or not Debtor's obligation to pay Ms. Campos (i) is *secured* by Debtor's postpetition accounts receivable or (ii) is supported by *any ownership interest* that Ms. Campos claims to have in Debtor's postpetition accounts receivable. See Order, dkt. 277, p.2:12-17, and Ex.1, at PDF pp.8-9, part "(1)(c)."

The confirmation of Debtor's plan does not moot either Debtor's claim objection or the above-referenced adversary proceeding. For example, Debtor's Plan expressly provides that, "to the extent valid, enforceable, and perfected, the Plan leaves unaltered the rights, if any, to which Campos is entitled pursuant to the [State Court's] Campos Assignment Order, all subject to all of Debtor's defenses" Plan (dkt. 251, Ex.1), at PDF p.43 (quoted in Interim Claim Order, dkt. 277, Ex.1, at PDF p.9, part "(1)(c)").

On a related issue, it is appropriate to consider at this Status Conference the status of all proceedings, including those on appeal, and determine which issues this Bankruptcy Court should address. The tentative ruling is that it is appropriate *not* to lift the stay of that adversary proceeding at this time, pending resolution of the appeals from the Assumption Memdispo and the Confirmation Order, and to proceed with adjudication of the remaining accounting issues involved in Debtor's claim objection (so that Debtor can make whatever minor adjustments might be necessary to the distributions under his confirmed Plan, once the precise dollar amount of Ms. Campos' claim is determined).

At the hearing on 5/4/21 this Court orally ordered supplemental briefing on those accounting issues, starting with a brief and declaration(s) from Ms. Campos setting forth her understanding of the remaining issues and her evidence in support of her position. See Interim Claim Order (dkt. 277), at Ex.1, PDF p.11, part "(1)(d)." But the parties' Joint Status Report Re: Accounting (dkt. 363) notes that, due to a calendaring error, Ms. Campos missed that deadline. (This Court also set a deadline of 6/1/21 for Debtor's response, and 6/8/21 for Ms. Campos' reply.)

The parties are directed to address whether they have agreed to new

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deadlines (subject to this Court's approval). The parties may address any other issues suitable for determination at this Status Conference and this hearing on Debtor's objection to Ms. Campos' claim.

(2) Deadlines/dates. This case was filed on 6/30/20.

(a) Bar date: 10/2/20 (dkt. 39) (timely served, dkt. 52)

(b) Procedures order: dkt.4 (timely served, dkt.18).

(c) Plan (dkt. 250, 251, 265)/Disclosure Statement* (dkt. 251): Plan confirmed at hearing held 4/27/21 at 1:00 p.m. (see dkt. 352).

(d) Post-confirmation status conference: 8/17/21 at 1:00 p.m. *Brief* post-confirmation status report due 8/3/21.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 5/4/21:

Continue as set forth below. Appearances are not required on 5/4/21.

(1) Current issues

(a) Debtor's motion to extend exclusivity period to obtain acceptance of plan (dkt. 305), no opposition on file

The tentative ruling is to grant the extension motion and extend the deadline for Debtor to gain acceptance of the plan to 6/28/21.

(b) Debtor's objection to Claim 2 filed by Yunuen Campos (dkt. 257),

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Chapter 11

Ms. Campos' opposition (dkt. 261), Debtor's reply (dkt. 266)

This Court has largely sustained this claim objection, except with respect to any outstanding accounting issues, as to which this Court directed the parties to meet and confer. The tentative ruling is to continue this hearing, to be contemporaneous with the continued status conference (see part "(2)" of this tentative ruling, below). If the parties have not resolved any disputes about the accounting, the tentative ruling is to set a **deadline of 5/25/21** for Debtor to file and serve a supplemental brief and declaration(s) setting forth Debtor's understanding of the remaining issues and his evidence in support of his position, with a **deadline of 6/1/21** for Ms. Campos' response, and **6/8/21** for Debtor's reply.

(c) Campos v. Kennedy (Adv. No. 2:20-ap-01626-NB)

The tentative ruling is to dismiss this adversary proceeding as moot. Previously this adversary proceeding was stayed so that Debtor could attempt to confirm his proposed Plan (with all rights reserved if Debtor failed to obtain confirmation of that Plan). See dkt. 247, Ex.1, at PDF pp. 5-6 (Section (1) (b)). Now this Court has issued an oral order confirming the Plan (at the hearing on 4/27/21).

Under the Plan, the parties' executory contract embodied in the Mediation Term Sheet is assumed and, contrary to Ms. Campos' position in this adversary proceeding, the Plan treats her claim as an unsecured claim (consistent with the Mediation Term Sheet, which neither creates nor recognizes any alleged security interests in future accounts receivable). Accordingly, there is no point in determining whatever Ms. Campos' rights would have been if the Plan had not been confirmed, and it appears that there is nothing left to address in this adversary proceeding.

Note: Nothing in the foregoing tentative ruling is intended to cut off or prejudice whatever rights Ms. Campos might have if this Court's orders were to be reversed or modified by any appellate tribunal. As stated on the record at the confirmation hearing on 4/27/21, the Plan does not purport to cut off or prejudice the issues that are subject to the appellate proceedings.

Proposed orders: Debtor is directed to proposed orders on each of the three foregoing matters via LOU within 7 days after the hearing date, and attach a copy of the tentative ruling in part "(1)(c)" to the order addressing that issue, all subject to Ms. Campos' rights to contest the

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CONT...

John Martin Kennedy

Chapter 11

tentative rulings and any changes that might be ordered at the hearing.
See LBR 9021-1(b)(1)(B).

- (2) Deadlines/dates. This case was filed on 6/30/20.
- (a) Bar date: 10/2/20 (dkt. 39) (timely served, dkt. 52)
 - (b) Procedures order: dkt.4 (timely served, dkt.18).
 - (c) Plan (dkt. 250, 251, 265)/Disclosure Statement* (dkt. 251): Plan confirmed at hearing held 4/27/21 at 1:00 p.m.
 - (d) Post-confirmation status conference: 6/15/21 at 1:00 p.m. No status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

John Martin Kennedy

Represented By

Sandford L. Frey

Dennette A Mulvaney

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2:20-19443 Joshuaville, LLC

Chapter 11

#10.00 Combine hrg re: Final Approval of
Disclosure and Plan Confirmation

Docket 60

Tentative Ruling:

Please see the tentative ruling for the Status Conference (Calendar No. 12,
6/15/21 at 1:00 p.m.).

Party Information

Debtor(s):

Joshuaville, LLC

Represented By
Leslie A Cohen

Trustee(s):

Moriah Douglas Flahaut (TR)

Pro Se

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2:20-19443 Joshuaville, LLC

Chapter 11

#11.00 Cont'd hrg re: Motion To Compel The Debtor To Properly Assume Or Reject Contract Or Dismiss Case fr. 5/4/21

Docket 66

Tentative Ruling:

Tentative Ruling for 6/15/21:

Please see the tentative ruling for the Status Conference (Calendar No. 12, 6/15/21 at 1:00 p.m.).

Tentative Ruling for 5/4/21:

Please see the tentative ruling for the Status Conference (Calendar No. 4, 5/4/21 at 1:00 p.m.).

Party Information

Debtor(s):

Joshuaville, LLC

Represented By
Leslie A Cohen

Movant(s):

March 1 and 3

Represented By
Dennis E McGoldrick

Trustee(s):

Moriah Douglas Flahaut (TR)

Pro Se

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2:20-19443 Joshuaville, LLC

Chapter 11

#12.00 Cont'd Status Conference re: Chapter 11 Case
fr. 11/10/20, 12/22/20, 1/26/21, 03/02/21, 03/23/21,
4/6/21, 4/27/21, 5/4/21

Docket 1

Tentative Ruling:

Tentative Ruling for 6/15/21:

Appearances required.

(1) Current issues

(a) Amended proposed Plan (dkt.60), Order setting confirmation hearing (dkt.63), Ballot Summary (dkt.82)

The tentative ruling is that the Plan cannot be confirmed. Although Debtor's ballot summary (dkt.82, p.3:6-13) asserts that the March Entities' ballot should not be counted because its claims are subject to a claim objection, that disregards this Court's order (dkt.63, para.1), which provides that claims were fixed as of 5/4/21 for voting purposes (with inapplicable exceptions). Debtor's claim objection (dkt.77) was not filed until after that deadline (on 5/28/21). Due to the size of the March Entities' claim, the holders of class 3 claims have not voted to accept the Plan by "at least two-thirds in amount." 11 U.S.C. 1126(c) (incorporated by 1129(a)(8)&(10) and 1191(a)). See Ballot Summary (dkt.82) (listing dollar amounts of claims).

In addition, this Court is not persuaded that "cramdown" is appropriate under 11 U.S.C. 1129(a)(1)-(3) and 1191(b). As set forth in the next section of this tentative ruling, although a plan may provide for assumption "subject to section 365" (11 U.S.C. 1123(b)(2)), the tentative ruling is that Debtor has not established compliance with section 365 in its attempt to assume its agreement with the March Entities. To the contrary, Debtor's proposed Plan appears to be a bad faith attempt to evade and indefinitely defer its obligations under that agreement.

In making the foregoing tentative rulings this Court recognizes that the docket does not reflect any objection to confirmation. But this Court has an independent duty to assure that the elements of 11 U.S.C. 1129 are satisfied. See *United Student Aid Funds, Inc. v. Espinosa*, 559 U.S. 260, at n.15 &

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CONT... **Joshuaville, LLC**
accompanying text (2010).

Chapter 11

(b) Motion of March 1 LLC and Marchlife3, LLC's (the "March Entities") to compel Debtor to assume or reject contract, or alternatively for dismissal of case (the "Deadline Motion," dkt. 66); Debtor's Opposition (dkt. 69); March Entities' Reply (dkt. 70), Debtor's Supp. Opp. (dkt. 76); March Entities' Supp. Reply (dkt. 81)

Grant the Deadline Motion as provided below, for the reasons stated in the Tentative Ruling for 5/4/21 (reproduced below) and the following additional reasons. The tentative ruling is to set a deadline of 24 hours prior to the continued hearing for Debtor (i) to pay the cure payments set forth below, (ii) to pay the compensation payments set forth below, and (iii) to provide evidence of additional investors or funds as adequate assurance of future performance, as set forth below. The tentative ruling is to set the continued hearing contemporaneous with the continued Status Conference (see part "(2)(d)" of this Tentative Ruling, below).

This Court recognizes that the foregoing might present an impossible burden for Debtor. But the tentative ruling is that the March entities are entitled to a tight deadline because of their own exigent circumstances.

(i) Background

At the hearing on 5/4/21 this Court was persuaded to continue this matter to this date. This Court orally set a deadline of 5/11/21 for the March entities to provide their supplement, a deadline of 5/25/21 for Debtor to respond with whatever briefing and evidence it may have, and a deadline of 6/4/21 for the March entities' reply. See Supp. Opp. (dkt. 76), p.6:4-10.

(ii) Statute

Debtor "may not assume" the subject contract without (i) curing, or providing "adequate assurance that [Debtor] will promptly cure" defaults, (ii) compensating, or providing "adequate assurance that [Debtor] will promptly compensate" the March entities for any "actual pecuniary loss" resulting from defaults, and (iii) providing "adequate assurance of future performance" by Debtor under the subject contract. 11 U.S.C. 365(b)(1). Debtor may assume or reject the contract "at any time before the confirmation of a plan but the court, on the request of any party to [the] contract ..., may order [Debtor] to determine within a specified period of time whether to assume or reject such

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contract" 11 U.S.C. 365(d)(2). As set forth in Debtor's papers, Debtor is entitled to a "reasonable" time to decide whether to assume or reject the contract, and what amount of time is "reasonable" is left to this Court's discretion in light of the circumstances of this case. See Supp. Opp. (dkt. 76) p.7:16-25 (citing authorities).

(iii) Urgency of Deadline to Compel Assumption or Rejection of the Participation Agreement

Debtor asserts that there is no urgency, and no need to set a deadline to compel assumption or rejection of the Participation Agreement, because the March Entities have not provided evidence that "Debtor's contribution is necessary to meet the [September 2021] due date," "that the due date is being enforced despite COVID-19 and the Force Majeure clauses under the DDA," or "that funds are even due from the Debtor." Supp. Opp. (dkt. 76) p. 7:11–13. The tentative ruling is that the March Entities have more than adequately addressed each of these issues. See, e.g., Niemann Decl. (dkt.74) at p.3, para.10 ("the funds to comply with the infrastructure construction obligation ... are needed immediately" and "there is no funding available for improvements required by Sept. 2021"); Supp. Reply (dkt. 81) pp. 4:9–12, 5:3–9; Second Amendment to the Disposition and Development Agreement (dkt. 74) Ex.A, section 2.01 (replacing section 6.03) and Ex.D (9/12/21 deadline for certain horizontal improvements).

The hypothetical possibility that the March Entities could escape termination of their contract based on COVID-19 and any Force Majeure clause is insufficient. Accordingly, the tentative ruling is that the March Entities have established the urgent need for Debtor to assume or reject the Participation Agreement so that they may continue their work under the Disposition and Development Agreement and retain that agreement.

(iv) Minimum cure and compensation payments

Debtor also makes several arguments against the cure and compensation demands of the March Entities. The tentative ruling is that Debtor's arguments have been fully rebutted by the March Entities, except as noted below. See Niemann Decl. (dkt.81), pp.2-7, *passim*.

On the specific issue of attorney fees, the tentative ruling is that the March Entities have the better argument for the following reasons. Under § 365(b)(1)(B), the party assuming a contract is required to compensate or

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provide adequate assurance to a party other than the debtor for any pecuniary loss resulting from a default on the contract in question. Although the Bankruptcy Appellate Panel has held that § 365(b)(1)(B) does not confer an independent right to attorney's fees as pecuniary losses, *In re Westside Print Works, Inc.*, 180 B.R. 557, 564 (9th Cir. BAP 1995), it has upheld the inclusion of attorney's fees for pecuniary losses where the contract at issue explicitly provided for the award of attorney's fees. *In re Bullock*, 17 B.R. 438, 439 (9th Cir. BAP 1982) ("The purpose of [§] 365(b)(1)(B) is to indemnify the other party to the contract or lease being assumed, against loss. The purpose of an attorney's fee clause in a lease as well as an attorney's fee clause in a security agreement is the same, to indemnify the lessor or secured party against legal expenses incurred by reason of the other party's default.").

Debtor objects to the March Entities' inclusion of \$2,500,000 for Phase 2 improvements. Supp. Opp. (dkt. 76) p. 10:1–7. The tentative ruling is that this amount is properly included within the cure obligation, based on the March Entities' citation to contractual provisions entitling them to make a demand for such funds. See Supp. Reply (dkt. 81) p. 3:13–19; May 11, 2021 Phase 2 Invoice (dkt. 81) Ex. D; March Entities' Reply to Debtor's Request for Additional Information (dkt. 81) Ex. C, at Bates p. 31; Participation Agreement (dkt. 66), Ex.A at PDF p. 29.

(2) Deadlines/dates. This case was filed, as a Subchapter V case, on 10/19/20.

- (a) Bar date: 12/28/20 per General Order 20-01 (70 days after petition date in Subchapter V cases) (DO NOT SERVE any notice: one has already been sent, see dkt.9).
- (b) Procedures order: dkt.4 (timely served, dkt.6).
- (c) Amended Plan (dkt. 60): See above.
- (d) Continued status conference: 6/29/21 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at

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www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 5/4/21:
Appearances required.

(1) Current issues

(a) Motion of March 1 LLC and Marchlife3, LLC's (the "March Entities") to compel Debtor to assume or reject contract, or alternatively for dismissal of case (the "Deadline Motion," dkt. 66); Debtor's Opposition (dkt. 69); March Entities' Reply (dkt. 70)

Although Debtor is correct that the March Entities' legal analysis is thin, the tentative ruling is that the March Entities have presented sufficient arguments and evidence that, unless Debtor assumes or rejects the Participation Agreement very soon, the March Entities will not be able to meet their own deadline of 9/19/21 (the "Third Party Deadline") to make certain mandatory improvements, under their Disposition & Development Agreement with a governmental or quasi-governmental "Authority" for development of part of the former March Air Force Base (the "Development Agreement"). See Neimann Decl. (dkt. 66), p. 7:8–12, *and* Ex.A pp.12 *and* 13 (Participation Agreement) recitals and section 1 (at PDF p. 15) *and* pp.26 & 29 (schedule of payments, and "Horizontal Improvements" budget, Ex.B&E to Participation Agreement) (at PDF pp. 28 & 31). The March Entities have provided evidence that they need an estimated \$800,000 of funding from Debtor or, in the alternative, from another source, far enough in advance of that Third Party Deadline to make the improvements, or else they risk losing the entire project. Dkt. 66, pp. 7:24–8:3.

Debtor provides no contrary evidence. True, Debtor's proposed Plan (the "Plan," dkt. 61) provides for assumption of the participation agreement and an eventual cure. But the proposed time for any cure payment appears

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to be the later of (i) the Effective Date (defined to be 6 months after confirmation), if Debtor has sold the interests by then, or alternatively (ii) any later date when Debtor has the funds to make cure payments, subject to the apparent condition that Debtor will only make such payments if it "sells its interests under the Participation Agreement within 3 years after the Effective Date." See Plan, dkt. 61, sections "A," "C," 2.03, 4.01, 6.01, and 8.01. The tentative ruling is that this is insufficient for multiple reasons.

First, the March Entities point to evidence (Debtor's own Monthly Operating Reports and other bankruptcy papers) that Debtor has very few funds or ability to generate income, and therefore Debtor lacks any obvious ability to make the cure payments, except for a speculative prospect of finding investors. Again, Debtor provides no contrary evidence. The tentative ruling is that Debtor has not provided "adequate assurance" that it will be able to cure the default, as required by 11 U.S.C. 365(b)(1)(A) and 1123(b)(2).

Second, the tentative ruling is that, once the Third Party Deadline has expired, Debtor cannot "unring the bell" and belatedly cure its own failure to fund the required improvements before that deadline. See *generally In re Claremont Acquisition Corp.*, 113 F.3d 1029, 1033-35 (9th Cir. 1997) (debtor's failure to operate business for two weeks was historical fact that could not be cured). This means that, based on the evidence provided by the March Entities, Debtor must provide very strong assurances very soon that it will be able to provide the funds in sufficient time for the required improvements to be constructed prior to the Third Party Deadline, or else the March Entities will be left with too little time to make other arrangements to obtain such funding and construct the necessary improvements before the Third Party Deadline.

Third, even supposing that Debtor had presented evidence of some leeway in the Third Party Deadline under the Development Agreement (which Debtor has not presented), the tentative ruling is that Debtor's proposed time line is not sufficient to "promptly" cure within the meaning of 11 U.S.C. 365(b)(1)(A) (emphasis added). Again, the March Entities have provided evidence of what "prompt[]" means in the circumstances of this case - *i.e.*, sufficient to assure that the March Entities will not lose their own rights under the Development Agreement - and Debtor has not provided any evidence to the contrary.

Fourth, Debtor's apparent loophole - that it will only pay the cure payment if it can sell its interests under the Participation Agreement within

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three years after the Effective Date - appears to undermine any ability to provide "adequate assurance" of a future cure. 11 U.S.C. 365(b)(1)(A) (emphasis added).

For each of the foregoing alternative reasons, the tentative ruling is to grant the Deadline Motion, and to set a **deadline of 6/1/21** for Debtor to (x) obtain a ruling from this Court authorizing it to assume its Participation Agreement with the March Entities and (y) actually fund the estimated \$800,000 of necessary improvements, or else (z) reject the Participation Agreement. The tentative ruling is that there is cause to shorten time on any motion to assume (or reject) the Participation Agreement, both because of the above 6/1/21 deadline and because Debtor would need to raise a lot of money quickly in order to meet that deadline. See Rules 6006, 9006(c) & (d), 9013, 9014, 9036.

The tentative ruling is to shorten the deadlines such that, if Debtor can **file and serve an assumption or rejection motion by 5/18/21**, that motion can be self-calendared concurrent with the continued status conference (see below), with an **opposition deadline of 5/24/21** and **any reply due 5/27/21**.

Nothing in the foregoing tentative rulings should be construed to eliminate any claims (if any) that survive the arbitration award (dkt. 66, Ex.B, at PDF pp.37 *et seq.*). For example, Debtor retains all claims or defenses that might arise from its assertion that the March Entities have prevented Debtor from performing, by failing to provide Debtor with allegedly essential information to be able to attract investors. See, e.g., Plan (dkt. 61), at PDF pp. 2-3. Likewise, the March Entities retain all claims or defenses that might arise from their assertions (and any preclusive findings or rulings in the arbitration award) that Debtor made material false statements in the inception of the participation agreement or thereafter. All rights are reserved as to any claims, counterclaims, and defenses that are not barred by principles of preclusion or other doctrines.

Proposed order: The March Entities are directed to lodge a proposed order on the Deadline Motion via LOU within 7 days after the hearing date and attach a copy of this tentative ruling, thereby adopting it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed, as a Subchapter V case, on

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10/19/20.

Chapter 11

- (a) Bar date: 12/28/20 per General Order 20-01 (70 days after petition date in Subchapter V cases) (DO NOT SERVE any notice: one has already been sent, see dkt.9).
- (b) Procedures order: dkt.4 (timely served, dkt.6).
- (c) Amended Plan (dkt. 61): Confirmation hearing 6/15/21 at 1:00 p.m. (dkt. 63)
- (d) Continued status conference: 6/1/21 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Joshuaville, LLC

Represented By
Leslie A Cohen

Trustee(s):

Moriah Douglas Flahaut (TR)

Pro Se

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2:21-10956 LAX In-Flite Services, LLC

Chapter 11

#13.00 Cont'd hrg re: Motion of Debtor for Approval
of Sale of Substantially All of its Assets
fr. 05/11/21, 5/19/21, 5/26/21

Docket 59

***** VACATED *** REASON: Continued to 6/29/21 at 1:00 p.m. pursuant
to the parties' stipulation (dkt. 109) and order thereon**

Tentative Ruling:

Party Information

Debtor(s):

LAX In-Flite Services, LLC

Represented By
Jeremy H Rothstein

Movant(s):

LAX In-Flite Services, LLC

Represented By
Jeremy H Rothstein
Jeremy H Rothstein

Trustee(s):

John-Patrick McGinnis Fritz (TR)

Pro Se

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2:21-10956 LAX In-Flite Services, LLC

Chapter 11

#14.00 Cont'd Status Conference re: Chapter 11 Case
fr. 02/25/21, 03/02/21, 4/6/21, 4/27/21, 5/11/21,
5/19/21, 5/26/21

Docket 1

Tentative Ruling:

Tentative Ruling for 6/15/21:

Continue as set forth below. Appearances are not required on 6/15/21.

(1) Current issues

(a) Debtor's motion to sell substantially all of its assets ("Sale Motion," dkt. 61-65, 67), Opposition of Ruth Gonzales, Braubert Andres, and Guillermo J. Lopez Gutierrez ("Gonzales et al.") (dkt. 77), SubchapterV Trustee's response (dkt. 83), Joinder of Samuel Pearce Trust ("Pearce") (dkt. 86), Debtor's reply to Gonzales et al. (dkt. 88), Debtor's reply to SubchapterV Trustee's response (dkt. 95), Schedules to APA (dkt. 99), Stipulation/Order continuing hearing (dkt. 102, 104)

This matter has been continued to 6/29/21 at 1:00 p.m. pursuant to the parties' stipulation (dkt. 109) and order thereon.

(2) Dates/procedures. This case was filed on 2/5/21.

(a) Bar date: 4/16/21 per General Order 20-01 (70 days after petition date in Subchapter V cases) (DO NOT SERVE any notice: one has already been sent, see dkt.16).

(b) Procedures order: dkt.3 (timely served, dkt.9)

(c) AmPlan/AmDisclosure Statement: TBD

(d) Continued status conference: 6/29/21 at 1:00 p.m., concurrent with other matters. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at

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www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 5/26/21:

Appearances required.

(1) Current issues

(a) Debtor's motion to sell substantially all of its assets ("Sale Motion," dkt. 61-65, 67), Opposition of Ruth Gonzales, Braubert Andres, and Guillermo J. Lopez Gutierrez ("Gonzales et al.") (dkt. 77), SubchapterV Trustee's response (dkt. 83), Joinder of Samuel Pearce Trust ("Pearce") (dkt. 86), Debtor's reply to Gonzales et al. (dkt. 88), Debtor's reply to SubchapterV Trustee's response (dkt. 95), Schedules to APA (dkt. 99), Stipulation/Order continuing hearing (dkt. 102, 104)

This Court has received a communication with chambers that the parties may stipulate to a further continuance of this hearing. But no such stipulation or proposed order has been filed or lodged as of the preparation of this tentative ruling, so in an abundance of caution this Court is posting this tentative ruling to apprise the parties of the need to appear if they have not sought and obtained an order for a continuance.

On the merits, there is no additional tentative ruling beyond what this Court previously provided. The parties should be prepared to address the issues set forth in this Court's 5/19/21 tentative ruling (copied below).

(2) Dates/procedures. This case was filed on 2/5/21.

- (a) Bar date: 4/16/21 per General Order 20-01 (70 days after petition date in Subchapter V cases) (DO NOT SERVE any notice: one has already been sent, see dkt.16).
- (b) Procedures order: dkt.3 (timely served, dkt.9)
- (c) AmPlan/AmDisclosure Statement: TBD

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(d) Continued status conference: 6/15/21 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 5/19/21:
Appearances required.

(1) Current issues

(a) Debtor's motion to sell substantially all of its assets ("Sale Motion," dkt. 61-65, 67), Opposition of Ruth Gonzales, Braubert Andres, and Guillermo J. Lopez Gutierrez ("Gonzales et al.") (dkt. 77), SubchapterV Trustee's response (dkt. 83), Joinder of Samuel Pearce Trust ("Pearce") (dkt. 86), Debtor's reply to Gonzales et al. (dkt. 88), Debtor's reply to SubchapterV Trustee's response (dkt. 95), Schedules to APA (dkt. 99)

The tentative ruling is that the following issues must be addressed before any sale can be approved. On the one hand, the tentative ruling is that Debtor has established sufficient justification for a quick sale of substantially all of its assets without overbids, instead of the delays and expenses of attempting to market the assets and hold an auction, which likely would result in *lower* net recoveries. Likewise, the tentative ruling is that Debtor has established sufficient justification for a sale instead of attempting to accomplish the same transaction through a chapter 11 plan, again because of the projected delays and costs of the latter proceeding (although those

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disadvantages might be exaggerated, given the speed and efficiency that are possible in Subchapter V).

In addition, the tentative ruling is that any sale can be free and clear of liens and other interests under 11 U.S.C. 363(f). Although this Court is not persuaded that "applicable nonbankruptcy law" provides for a sale of substantially all assets to an insider free and clear of successor liability and other interests in the assets (section 363(f)(1)), or that a lack of objection is the same as "consent[]" (section 363(f)(2)) (dkt.59, pp.11:3-12:10), nevertheless section 363(f)(4) and (5) apply. Any purported lien or interest would qualify as "disputed" under section 363(f)(4), because of Debtor's lien searches, the lack of notice to Debtor of any other encumbrances or interests (other than Permitted Encumbrances), and the usual grounds for contesting any successor liability. Alternatively, this Court is persuaded that section 363(f)(5) applies because of the existence of "legal or equitable proceeding[s]" that could compel holders of any liens or other interests to accept a "money satisfaction," such as foreclosures and receiverships in which sales can be accomplished free and clear. As stated in the posted "Procedures of Judge Bason" (available at www.cacb.uscourts.gov) under "Common matters":

Regarding § 363(f)(5), the judge does not follow *Clear Channel Outdoor, Inc. v. Knupfer (In re PW, LLC)*, 391 B.R. 25, 40 (B.A.P. 9th Cir. 2008). He has ruled that a sale free and clear is permissible under § 363(f)(5) whenever the interest at issue is subject to monetary valuation. See *In re Trans World Airlines, Inc.*, 322 F.3d 283, 290-91 (3d Cir. 2003) ("TWA") (because employees' claims were "subject to monetary valuation," debtor's assets could be sold free and clear of successor liability for such claims under § 363(f)(5)). Alternatively, the judge has ruled that "cramdown" is among the types of legal or equitable proceeding within the statute, or that *Clear Channel* is distinguishable in most cases under the rationale of *In re Jolan*, 403 B.R. 866 (Bankr. W.D. Wash. 2009), because holders of interests can be compelled in numerous other types of legal or equitable proceedings to accept a money satisfaction (which might be \$-0- in the case of an interest that is entirely underwater). Those proceedings include a hypothetical foreclosure by one of the lienholders, or a receivership (which could be initiated at the behest of creditors or by the debtor itself). See

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Cal. Code Civ. Proc. ("CCP") §564(b)(9) (power to appoint receiver to sell property); CCP § 568.5 (receiver empowered to sell property as provided in CCP §§701.510 et seq.); CCP § 701.630 (extinguishment of liens); CCP § 701.680 (binding effect of sale). The judge respectfully disagrees with *In re Hassen Imports P'ship*, 502 B.R. 851, 860 et seq. (C.D. Cal. 2013) (hypothetical foreclosure sale did not qualify under section 363(f)(5)). See generally *In re Catalina Sea Ranch, LLC* (Case No. 2:19-bk-24467-NB), dkt. 122 (approving sale to insider, free and clear of successor liability).

On the other hand, (i) the insider nature of the proposed transaction requires greater scrutiny and (ii) unless the proposed sale is assured of generating funds sufficient to pay a meaningful dividend to nonpriority unsecured creditors, it does not appear appropriate to approve the proposed sale. This Court's reasoning is that, if a sale is a permissible substitute for a plan (under *Braniff, Lionel, Walter, Continental Airlines, Coastal Indus., Abbots Dairies*, etc. - see dkt.83, *passim and especially* pp.2:19-5:4 and 8:1-16:17), then this Court must consider whether the proposed transaction, if embodied in a proposed plan, would fail the tests for confirmation, and whether the proposed transaction would otherwise be contrary to the process and distribution scheme contemplated by the Bankruptcy Code. This approach is consistent with the definition of "cause" to dismiss or convert a case under 11 U.S.C. 1112: if no plan could be confirmed within any reasonable time frame, then this Court "shall" convert or dismiss the case. See 11 U.S.C. 1112(b)(4)(J).

The tentative ruling is that, if no meaningful dividend can be assured, then the proposed disposition of Debtor's assets would not satisfy the "fair and equitable" standard for confirmation of any plan, and it would be inappropriate to permit an "end run" around that standard, without even having an opportunity for creditors to vote (because there is no plan), while providing insiders with various benefits from the proposed transaction. In addition, there is insufficient assurance, on such shortened time, that the best interests of creditors test (11 U.S.C. 1129(a)(7)) would not favor a chapter 7 liquidation.

Conversion to chapter 7 would preserve the integrity of the system by enabling an independent investigation and assessment. Specifically, it is

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possible that a chapter 7 trustee: (w) could either obtain a better sale price from the proposed buyer or competitors, (x) could investigate Debtor's vague assertions that unspecified "problems" (dkt. 59, p.3:20) transformed a business from one that "historically operated at a profit" (*id.*, p.3:19) into one that allegedly "would require significant capital investment before it could even break even" (*id.*, p.4:16-17), (y) could uncover claims against insiders, avoidance actions, or other sources of recoveries, and alternatively (z) could, at the very least, provide greater assurance that all "stones had been turned over" to explore whether the foregoing recoveries were possible.

In other words, the tentative ruling is that it is inappropriate to authorize a sale of substantially all assets, with the benefits and protections to insiders and the buyer of releases and cutting off potential successor liability and other claims, unless a meaningful dividend to nonpriority unsecured creditors can be assured. True, conversion or dismissal of this case might produce *smaller*, not greater, chances of any meaningful recoveries. But the tentative ruling is that the integrity of the system requires either the protections of a chapter 7 trustee or, alternatively, assurance of a meaningful distribution to nonpriority unsecured creditors. Absent the latter, the tentative ruling is that this Court cannot approve the proposed quick, no-voting, no-overbid sale to insiders with releases and a transfer of assets to them free and clear of successor liability.

(b) Plan (dkt. 89)

The tentative ruling is that, although Debtor's Plan is essentially a blank slate, the details of which Debtor proposes to supply after the (hoped for) approval of the Sale Motion, that is sufficient under the circumstances. The tentative ruling is not to take any further action with respect to the Plan at this time.

(2) Dates/procedures. This case was filed on 2/5/21.

- (a) Bar date: 4/16/21 per General Order 20-01 (70 days after petition date in Subchapter V cases) (DO NOT SERVE any notice: one has already been sent, see dkt.16).
- (b) Procedures order: dkt.3 (timely served, dkt.9)
- (c) Plan/Disclosure Statement: See Section (1)(b) above.
- (d) Continued status conference: 6/15/21 at 1:00 p.m. No written status report required.

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*Warning: special procedures apply (see order setting initial status conference).

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[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

LAX In-Flite Services, LLC

Represented By
Jeremy H Rothstein

Trustee(s):

John-Patrick McGinnis Fritz (TR)

Pro Se

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2:18-15559 R44 LENDING GROUP, LLC a Delaware Limited Liabilit

Chapter 11

#15.00 Status conference re: Post Confirmation
fr. 6/12/18, 6/26/18, 08/07/18, 10/9/18, 11/6/18,
12/11/18, 03/12/19, 3/26/19, 5/14/19, 6/11/19,
7/2/19, 7/30/19, 9/17/19, 11/12/19, 12/17/19,
3/10/20, 6/16/20, 8/18/20, 9/29/20, 11/10/20,
12/8/20, 2/16/21, 3/5/21

Docket 5

Tentative Ruling:

Appearances required.

(1) Current issues

(a) Debtor's Post-Confirmation Status Report (256)

Debtor reports that the confirmed plan "has funded to escrow but ... escrow has not yet closed." Dkt.256, p.2:6-7 (footnote omitted). Why not? What is Debtor's projected progress toward resolution, and paying the Granada Park Tenants what they are owed under the Plan without undue delay?

(2) Deadlines/dates

This case was filed on 5/15/18, and Debtor's plan was confirmed on 3/15/21 (dkt. 230). The tentative ruling is to set a continued post-confirmation status conference for 7/20/21 at 1:00 p.m., with a *brief* status report due 7/6/21.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the

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first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

R44 LENDING GROUP, LLC a

Represented By
Jeffrey S Shinbrot

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2:20-11333 Edmund Lincoln Anderson

Chapter 11

#16.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 4/27/21, 5/11/21, 6/1/21

US BANK TRUST NA
vs
DEBTOR

Docket 339

Tentative Ruling:

Tentative Ruling for 6/15/21:

Please see the tentative ruling for the status conference (Calendar No. 18,
6/15/21 at 1:00 p.m.).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Edmund Lincoln Anderson

Represented By
Stella A Havkin

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2:20-11333 Edmund Lincoln Anderson

Chapter 11

#17.00 Cont'd hrg re: Third Default on Stipulation for use of
Cash Collateral and Adequate Protection
(Internal Revenue Service)
fr. 3/23/21, 4/27/21, 5/11/21, 6/1/21

Docket 315

Tentative Ruling:

Tentative Ruling for 6/15/21:

Please see the tentative ruling for the status conference (Calendar No. 18,
6/15/21 at 1:00 p.m.).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Edmund Lincoln Anderson

Represented By
Stella A Havkin

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2:20-11333 Edmund Lincoln Anderson

Chapter 11

#18.00 Cont'd Status Conference re: Chapter 11 Case
fr. 3/3/20, 3/10/20, 4/7/20, 4/21/20, 6/2/20, 7/14/20,
7/28/20, 8/18/20, 9/1/20, 10/6/20, 10/27/20, 12/1/20,
1/5/21, 2/9/21, 03/02/21, 3/23/21, 4/27/21, 5/11/21,
6/1/21

Docket 1

Tentative Ruling:

Tentative Ruling for 6/15/21:

Appearances required.

(1) Current issues

At the hearing on 6/1/21 this Court orally granted the motion of the IRS for appointment of a chapter 11 trustee, as later memorialized in written orders and associated filed documents. Dkt. 363, 370-74.

(a) Cash collateral: declaration re 3d default (the "Default Decl.," dkt.315), Debtor's response (dkt.317), order setting hearing (dkt.318)

There is no tentative ruling, but the parties should be prepared to provide an update on the status of efforts to sell Debtor's properties.

(b) U.S. Bank Trust NA as Trustee of the Tiki Series III Trust's Declaration of Default Under Adequate Protection Order; Request for Entry of Order Granting Relief from Stay (dkt. 339), Debtor's Opposition (dkt. 342), order setting hearing (dkt. 343)

Same as above.

(2) Deadlines/dates. This case was filed on 2/6/20.

(a) Bar date: 5/1/20 (dkt. 50; timely served, dkt. 55).

(b) Procedures order: dkt. 7 (timely served, dkt.8)

(c) Plan/Disclosure Statement (dkt. 251, 250)*: TBD.

(d) Continued status conference: 7/6/21 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status

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CONT... Edmund Lincoln Anderson
conference).

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[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Edmund Lincoln Anderson

Represented By
Stella A Havkin

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2:20-18530 Socorro Evelina Garcia

Chapter 7

#1.00 Cont'd hrg re: Motion to Set Aside State Court Default Judgment for Violation of the Automatic Stay fr. 2/9/21, 4/6/21

Docket 24

Tentative Ruling:

Tentative Ruling for 6/15/21:

Continue as set forth below. Appearances are not required on 6/15/21.

(1) Current issues

(a) Contempt/Sanctions motion (dkt. 24, 25), Opposition of Jordan Jarvis and Dixon G. Kummer, Esq ("Respondents") (dkt. 30), Debtor's reply (dkt. 31), interim order (dkt. 32), Debtor's notice of errata (dkt. 34), Dixon declaration (dkt. 35), Order assigning matter to mediation (dkt. 36) & proof of service (dkt. 38), mediator's certificate of conclusion of mediation (dkt. 42) Declaration of Dixon G. Kummer re status of mediation (dkt. 43)

Based on this Court's review of the mediator's certificate and Mr. Kummer's declaration stating that the parties have settled their dispute and intend to seek approval of their propose settlement agreement, the tentative ruling is to set a **deadline of 7/13/21** for Mr. Kummer to file and serve a motion for approval of the parties' settlement agreement with a hearing concurrent with the continued status conference (see Section (2)(a) below).

(b) Jarvis v. Garcia (Adv. No. 2:21-ap-01006-NB, the "Removed Action"), Debtor's declaration (adv. dkt. 4)

On 4/6/21 this Court ordered this matter stayed while the parties participated in mediation. In view of the parties' settlement, the tentative ruling is to set a further continued status conference concurrent with the continued status conference (see Section (2)(a) below), subject to this proceeding being vacated if the settlement is approved.

(2) Deadlines/dates. This case was filed on 9/18/20.

(a) Continued status conference: 8/3/21 at 2:00 p.m. No written status report required.

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Tentative Ruling for 4/6/21:

Continue as set forth below. Appearances are not required on 4/6/21.

(1) Current issues

(a) Contempt/Sanctions motion (dkt. 24, 25), Opposition of Jordan Jarvis and Dixon G. Kummer, Esq ("Respondents") (dkt. 30), Debtor's reply (dkt. 31), interim order (dkt. 32), Debtor's notice of errata (dkt. 34), Dixon declaration (dkt. 35), Order assigning matter to mediation (dkt. 36) & proof of service (dkt. 38)

This Court has reviewed Debtor's declaration filed in the Removed Action (adv. dkt. 4) stating that she has been unable to reach the Court's designated mediator and the alternate mediator is unavailable to mediate the parties' dispute.

The tentative ruling is to continue the status conference as set forth below (see Section (2)(a) below) and set the following deadlines for the selection of a different mediator: (i) **4/13/21** for the parties to meet and confer to select a different mediator, (ii) **4/16/21** for the parties to confirm the availability and willingness of their proposed mediator, and (iii) **4/20/21** for the parties to file a status report with their chosen mediator and telephone Chambers to let Judge Bason's staff know that the status report has been filed.

Once this Court reviews the parties' status report this Court will prepare and issue an amended order assigning the matter to mediation.

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(b) Jarvis v. Garcia (Adv. No. 2:21-ap-01006-NB, the "Removed Action"), Debtor's declaration (adv. dkt. 4)

The tentative ruling is to stay this proceeding pending conclusion of the parties' mediation efforts and set a continued status conference concurrent with the continued status conference (See Section (2)(a) below).

(2) Deadlines/dates. This case was filed on 9/18/20.

(a) Continued status conference: 6/15/21 at 2:00 p.m. No written status report required.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 2/9/21:
Appearances required.

The tentative ruling is to grant the motion and impose sanctions as set forth below.

Proposed order: Debtor is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b) (1)(B).

Key documents reviewed (in addition to motion papers, dkt.24, 25):
Opposition of Jordan Jarvis and Dixon G. Kummer, Esq ("Respondents") (dkt.

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30), Debtor's reply (dkt. 31), interim order (dkt. 32), Debtor's notice of errata (dkt. 34), as of the preparation of this tentative ruling no response has been filed by Jeff or Linda Jarvis.

Analysis:

(1) Background

Debtor moves for an order setting aside a state court default judgment and for damages arising from violations of the automatic stay under 11 U.S.C. 362(k). On 1/29/21, this Court entered an "Emergency Order: (1) Granting Partial Relief on Debtor's Motion to Set Aside Default Judgment on an Interim Basis, and (2) Directing Respondents to (I) Cease All Eviction Efforts and Related Acts, (II) Instruct Any Persons Aiding Them in Those Efforts to Cease all Such Efforts, and (III) Appear and Address the Stay Violation Issues and the Appropriate Amount of Damages" (dkt. 32, the "Interim Order"). The Interim Order sets forth the facts relevant to this dispute as well as the applicable law and this Court's interim findings and conclusions, which this Court incorporates by reference and will not repeat here. (Errata: This Court hereby corrects one non-material error in the Interim Order: the phrase "nearly a month later" (*id.*, p.2:27) is amended to read "over two months later.")

(2) The default judgment is void

For the reasons stated in the Interim Order, the tentative ruling is to confirm that the Default Judgment is void and of no legal effect because it was entered on 12/8/20 in violation of the automatic stay that was in effect as of the date of entry of the judgment. See Dkt. 25, Ex.3; see also *In re Wardrobe*, 559 F.3d 932, 934 (9th Cir. 2009) (judicial proceedings in violation of the automatic stay are also void); *In re Gruntz*, 202 F.3d 1074, 1082 (9th Cir. 2000) (*en banc*) ("actions taken in violation of the automatic stay are void. Further, '[j]udicial proceedings in violation of th[e] automatic stay are void.' . . . As the Supreme Court explained in *Kalb [v. Feuerstein]*, 308 U.S. 433, 443 (1940)], discussing the weaker predecessor statute to 11 U.S.C. § 362(a), '[b]ecause that State court had been deprived of all jurisdiction or power to proceed ... [all acts by creditor]-to the extent based upon the [State] court's actions-were all without authority of law.'" (citations omitted); *In re Schwartz*, 954 F.2d 569, 571 (9th Cir. 1992) ("It is well established that acts in violation of the automatic stay are void *ab initio* and have no force or effect").

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(3) Debtor is entitled to recover damages arising from Respondents' willful violation of the automatic stay (11 U.S.C. § 362(k))

Section 362(k)(1) provides, "...an individual injured by any willful violation of a stay provided by this section shall recover actual damages, including costs and attorneys' fees, and, in appropriate circumstances, may recover punitive damages." 11 U.S.C. 362(k)(1).

A willful violation is satisfied if a party knew of the automatic stay, and that party's actions in violation of the automatic stay were intentional. *In re Bruel*, 533 B.R. 782, 787 (Bankr. C.D. Cal. 2015) (citation *Eksanos & Adler, P.C. v. Leetien*, 309 F.3d 1210, 1215 (9th Cir. 2002)). "Once a creditor has knowledge of the bankruptcy, it is deemed to have knowledge of the automatic stay." *Id.* Even if a party violates the stay inadvertently, once it becomes clear that a stay violation has occurred it is the duty of the party violating the stay to remedy the stay violation. *In re Stefani*, 2019 Bankr. LEXIS 481, at *21, 2019 WL 762661, at *8 (Bankr. S.D. Cal. Feb. 15, 2019) (citing *In re Roman*, 283 B.R. 1, 12 (9th Cir. BAP 2002) (creditor has the burden both to establish administrative safeguards to prevent stay violations and to restore the status quo by undoing them); *In re Dyer*, 322 F.3d 1178, 1192 (9th Cir. 2003) (knowledge of a stay violation created an "affirmative duty to remedy [the] automatic stay violation")).

The tentative ruling is that Debtor's evidence is insufficient to establish that Respondents knew Debtor's bankruptcy case had been reinstated when they obtained the Default Judgment because the Certificate of Notice of the Order Reinstating the Case does not reflect service on Respondents (dkt. 21) and Debtor has not submitted any evidence establishing that Respondents received notice in some other way prior to 12/8/20 when the Default Judgment was entered.

But Respondents do not dispute that they were made aware of this Court's Order Reinstating Case on December 15, 2020 when Debtor's counsel e-mailed them to notify them that the Default Judgment was void as a violation of the automatic stay and to request that Respondents take steps to vacate the default judgment. Dkt. 25, Ex.4 & Dkt. 30, p.2:24-26. Therefore, the tentative ruling is that Debtor has shown by a preponderance of the evidence that Respondents had actual notice of Debtor's bankruptcy filing and of the automatic stay no later than December 15, 2020.

The tentative ruling is also that because the Default Judgment was

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void *ab initio* (*Schwartz*, 954 F.2d 569, 571), the real property that is the subject of that action is property of Debtor's bankruptcy estate and continues to be subject to the automatic stay. See 11 U.S.C. 362(a)(3), (6) and 541(a) (1). As a result, Respondents' efforts to enforce the Default Judgment were intentional, willful and in violation of the automatic stay. The tentative ruling, based on Debtor's unrefuted evidence, is that Respondents:

(a) failed to take any actions to have the Default Judgment vacated despite having an affirmative obligation to do so (dkt. 25, p.13:17-24; see *also* dkt. 30, p.3:5-13);

(b) engaged in efforts to lock out and evict Debtor and her daughter from the real property that is the subject of the Default Judgment by changing the locks and posting a 60-day notice to vacate and a notice of termination of tenancy for no-fault just cause (dkt. 25, pp. 13:25-14:3, 17:17-18:11 & Ex. 5, 8, 9);

(c) seized Debtor's and her daughter's personal property (dkt. 25, pp. 14:26-15:25 & 17:3-19:10); and

(d) threatened and harassed Debtor and her daughter with the specific intent of trying to intimidate them to vacate the subject property and turn over full possession to Mr. Jarvis. Dkt. 25, pp. 14:4-25, 15:15-20 & Ex.6 & 7. (Debtor and her daughter also allege harassment of the boyfriend of Debtor's daughter, but there is no declaration from him, and although there is no hearsay objection this Court has discretion to require non-hearsay evidence even when respondents have failed to raise any hearsay objection. See Rule 55(b)(2), Fed. R. Civ. P. (incorporated by Rules 7055 & 9014(c), Fed. R. Bankr. P.))

(4) Damages

"The words 'shall recover' indicate that Congress intended that the award of actual damages, costs and attorney's fees be mandatory upon a finding of willful violation of the stay." *In re Ramirez*, 183 B.R. 583, 589 (9th Cir. BAP 1995) (internal citations omitted).

(a) Actual damages/Attorney's fees

Section 362(k)(1) is a fee-shifting statute that entitles debtor not only to attorney's fees and costs incurred in ending a stay violation, but also to fees and costs incurred in prosecuting an action for damages from a stay violation and in successful defending a damages award on appeal. *In re Schwartz-Tallard*, 803 F.3d 1095, 1099-1101 (9th Cir. 2015) (internal citations omitted);

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see also In re Moon, 2021 Bankr. LEXIS 27 at *10, 2021 WL 62629 at *10 (9th Cir. BAP Jan. 7, 2021) ("attorney's fees and costs are 'incurred' even when the plaintiff is not personally liable for them") (citations omitted).

In support of her motion and reply papers, Debtor submitted evidence establishing \$6,554 in damages as follows: (1) \$1,700 to prepare and file the Stay Violation Motion (dkt. 25, p.15:11-13); (2) \$500 to prepare and file her reply in support of the Stay Violation Motion and to file a notice of removal of the State Court Action (dkt. 31, p.6:13-15); (3) \$1,500 in attorney's fees incurred having to defend against Department of Real Estate complaint Mr. Jarvis filed against Debtor (dkt. 25, p.15:15-20); and (4) \$2,854 to reimburse Debtor's daughter and Debtor's daughter's boyfriend for theft of property that Debtor is responsible for reimbursing (dkt. 25, p.15:21-25).

The tentative ruling is that Debtor is entitled to an award of actual damages, including attorney's fees and costs, of \$6,554, payable jointly and severally by the Respondents.

(b) Emotional distress damages

To be entitled to damages for emotional distress under section 362(k), an individual must (1) suffer a significant harm, (2) clearly establish the significant harm, and (3) demonstrate a causal connection between that harm and the violation of the automatic stay. *In re Dawson*, 390 F.3d 1139, 1148-49 (9th Cir. 2004). "Fleeting or trivial anxiety or distress does not suffice to support an award; instead, an individual must suffer significant emotional harm." *Id.* (citations omitted).

An individual may establish emotional distress damages in a number of ways, such as by providing corroborating medical evidence or by submitting testimony or declarations from family members, friends or coworkers. *Id.* at 1149-50. Additionally, in some cases, "significant emotional distress may be readily apparent even without corroborative evidence" such as instances where the violator has engaged in egregious conduct. *Id.* Alternatively, "even if the violation of the automatic stay was not egregious, the circumstances may make it obvious that a reasonable person would suffer significant emotional harm." *Id.*

In support of the Stay Violation Motion, Debtor submitted her declaration in which she states "Emotional Distress/Punitive; It is hard to measure these. However, the emotional impact has been tremendous, while myself and my family are being harassed no end. I believe that emotional

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distress punitive damages are warranted" Dkt. 25, p.15:27-16:2. The tentative ruling is that this is insufficient to warrant the imposition of emotional distress damages.

(c) Punitive damages

Section 362(k) authorizes an award of punitive damages "in appropriate circumstances." 11 U.S.C. 362(k)(1). "An award of punitive damages requires some showing of reckless or callous disregard for the law or rights of others" or "where the conduct is malicious, wanton, or oppressive." *In re Snowden*, 769 F.3d 651, 657 (9th Cir. 2014). "Courts have also imposed punitive damages for arrogant defiance of the automatic stay." *In re Stefani*, 2019 Bankr. LEXIS 481, at * 22-23, 2019 WL 762661, at *8 (Bankr. S.D. Cal. Feb. 15, 2019) (emphasis added) (citing *In re Jean-Francois*, 532 B.R. 449, 459 (Bankr. E.D.N.Y. 2015); *In re Diviney*, 211 B.R. 951 (Bankr. N.D. Okla. 1997)). "The Court in considering an award of punitive damages, thus, needs to find that the violator did more than violate the stay through mere negligence or inattention." *Id.* at *8. "The amount of a punitive damage award is also fact-specific and within the discretion of a Bankruptcy Court." *Id.* (citation omitted). In determining whether to impose punitive damages under [section] 362(k), bankruptcy courts have considered the nature of the creditor's conduct, the creditor's ability to pay, the motives of the creditor, any provocation by the debtor, and the creditor's level of sophistication." *Id.* (emphasis added).

The tentative ruling is that punitive damages are appropriate for several reasons. First, Respondents' refusal to remedy the stay violation is ongoing and intentional. Second, Respondents' three-page opposition is not supported by any citation to legal authority and Respondents do not even attempt to deny Debtor's allegations or refute Debtor's evidence with declarations or other evidence. Their papers reflect a complete indifference to educate themselves on applicable bankruptcy law and/or a willful and callous disregard of the automatic stay and this Court's authority. Third and finally, their willful stay violations are numerous and malicious—they have willfully refused to take steps to vacate the Default Judgment and instead have changed the locks and posted notices of eviction on the property, they have sent threatening and intimidating messages to Debtor and her family members and attempted to enforce prepetition claims against Debtor, with the

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additional apparent intent to destroy Debtor's ability to earn an income, by filing lawsuits against her and contacting her employer.

Respondents should be prepared to address whether there are any grounds why this Court should not impose **\$7,000** in punitive damages against them, jointly and severally, for their egregious behavior.

(5) Caveat

As always, tentative rulings are just that - tentative. In addition, this Court's Interim Order (dkt.32, p.6:10-12) prohibited any further briefing. All rights are reserved to argue why this Court should or should not permit further briefing. In addition, this Court has the power to order mandatory mediation of parties before it, and the parties should be prepared to address whether this Court should do so.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Socorro Evelina Garcia

Represented By
Nathan A Berneman

Movant(s):

Socorro Evelina Garcia

Represented By
Nathan A Berneman

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Trustee(s):

Elissa Miller (TR)

Pro Se

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2:20-18530 Socorro Evelina Garcia

Chapter 7

Adv#: 2:21-01006 Jarvis v. Garcia et al

#2.00 Cont'd status conference re: Removal
fr. 3/23/21

Docket 1

Tentative Ruling:

Tentative Ruling for 6/15/21:

Please see the tentative ruling for the bankruptcy status conference
(Calendar No. 1, 6/15/21 at 2:00 p.m.).

Tentative Ruling for 4/6/21:

Please see the tentative ruling for the bankruptcy status conference
(Calendar No. 3, 4/6/21 at 2:00 p.m.).

Tentative Ruling for 3/23/21:

Continue this matter to 4/6/21 at 2:00 p.m. concurrent with the hearing on
Debtor's motion to set aside state court default and for violation of the
automatic stay (2:20-bk-18530-NB, dkt. 25). Appearances are not required
on 3/23/21.

If appearances are not required at the start of this tentative ruling but you
wish to dispute the tentative ruling, or for further explanation of "appearances
required/are not required," please see Judge Bason's Procedures (posted at
www.cacb.uscourts.gov) then search for "tentative rulings." If appearances
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appropriate for disposition at this hearing. Pursuant to Judge Bason's
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instructions for all matters on calendar, please see the tentative ruling for the
first matter on today's calendar (*i.e.*, page 1 of the posted tentative
rulings). Unless otherwise stated, appearances via CourtCall are no longer
permitted.

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Debtor(s):

Socorro Evelina Garcia

Represented By
Nathan A Berneman

Defendant(s):

Socorro Garcia

Pro Se

DOES 1 through 20, inclusive

Pro Se

Plaintiff(s):

Jordan Jarvis

Pro Se

Trustee(s):

Elissa Miller (TR)

Pro Se

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2:18-24302 GL Master Inc

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#3.00 Second Cont'd Evidentiary Hrg re: Order to Show Cause re: Civil Contempt and Directing (i) Debtor, (ii) Freda Wang, (iii) Thomas Polis, (iv) Lynn Chao, (v) The Law Offices of Lynn Chao to Appear and Show Cause Why This Court Should Not Find Them in Contempt and Impose Sanctions fr. 8/19/20, 9/17/20, 11/3/20, 12/1/20, 12/22/20, 1/5/21, 1/26/21, 4/27/21, 5/11/21, 06/01/21

Docket 173

Tentative Ruling:

Tentative Ruling for 6/15/21:

Appearances required.

Key documents reviewed: (i) Memorandum Decision Re: Alleged Employees' Motion for Contempt and Sanctions (dkt. 276, "MemDispo"); (ii) Order: (1) Implementing Memorandum Decision re: Alleged Employees' Motion for Contempt and Sanctions, and (2) Setting Related Briefing Schedule (dkt. 291, the "Sanctions Order"); (iii) Alleged Employees' supplemental declarations re compensatory sanctions (dkt. 297); (iv) Notice of Appeal and Statement of Election (dkt. 300); (v) Contemnors' motion to extend time (dkt. 299) and order thereon (dkt. 302); (vi) Contemnors' supplemental declarations (dkt. 306); (vii) Alleged Employees' supplemental response (dkt. 309); (viii) Contemnors' supplemental reply (dkt. 313)

(1) Current issues

(a) Background

The Contemnors have filed a Notice of Appeal (dkt. 300, "NOA") of the Sanctions Order. The parties have not briefed the scope of this Bankruptcy Court's jurisdiction in view of the pending appeal.

In general, this Bankruptcy Court's understanding is that: it is deprived of jurisdiction over any matter as to which any appellate court is exercising jurisdiction; but in the absence of a stay pending appeal this Bankruptcy Court retains jurisdiction to implement or enforce its existing orders, as well as jurisdiction over all other matters in the bankruptcy case. *See, e.g., In re*

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Sherman, 491 F.3d 948, 967 (9th Cir. 2007) ("The timely filing of a notice of appeal to either a district court or bankruptcy appellate panel will typically divest a bankruptcy court of jurisdiction over those aspects of the case involved in the appeal" but not on any other issues in the case, and even with respect to the order or judgment on appeal the bankruptcy court retains jurisdiction "to implement or enforce the judgment or order, although it may not alter or expand upon the judgment"; and "[i]f a party wants to stay all of the proceedings in bankruptcy court while an appeal is pending, it must file a motion for a stay." (citations and internal quotation marks omitted).

In addition, now that the applicable rules have been augmented with a rule concerning "indicative rulings" (renumbered Rule 8008, Fed. R. Bankr. P.), this Bankruptcy Court is authorized to do several things notwithstanding any pending appeal. Specifically, with respect to a motion as to which this Bankruptcy Court "lacks authority to grant because of an appeal," it may "(1) defer considering the motion; (2) deny the motion; or (3) state that the court would grant the motion if the court where the appeal is pending remands for that purpose, or state that the motion raises a substantial issue."

Based on this Bankruptcy Court's understanding of the matter on appeal - and in the absence of anything on the docket suggesting otherwise - the tentative ruling is that this Bankruptcy Court has jurisdiction to address the issues set forth below. In the alternative, the tentative ruling is that this Bankruptcy Court has jurisdiction to issue indicative rulings on the issues set forth below.

(b) Compensatory sanctions (dkt. 297), no opposition is on file

This Court has reviewed the Alleged Employees' time records (dkt. 297). As of the preparation of this tentative ruling, the Contemnors have not filed any opposition.

The tentative ruling is to award supplemental fees in the amount of \$5,050 and costs in the amount of \$86, for a total supplemental compensatory sanctions award of **\$5,136** against the Contemnors, payable to the Alleged Employees as compensation for the fees and costs they have been forced to incur to date to compel compliance.

In addition, the tentative ruling is that all rights are reserved for the Alleged Employees to request further compensatory sanctions in future until this Court finds that the Contemnors have fully complied with the 2004 Orders.

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(c) Coercive sanctions

This Court has reviewed the parties' supplemental papers (dkt. 306, 309, 313).

(i) Appropriate amount of daily sanctions

The Contemnor Contempt/Sanctions Order (dkt. 291) notified the Contemnors of this Court's intent to impose coercive sanctions against each of them in the amount of **\$100 per day**, starting on 5/17/21 (the original date was 5/10/21, but this Court extended that deadline at the Contemnors' request, see dkt. 299 & 302), but set a deadline for the Contemnors to present any argument or evidence in support of any different dollar amount or any different period than daily sanctions. Dkt. 291, pp. 4:10-18.

This Court has reviewed the Contemnors' supplemental declarations (dkt. 306 & 313) and notes that they do not object to this Court's proposed sanction amount and frequency. Therefore, the tentative ruling is that coercive sanctions will continue to be **\$100 per day**, payable as stated in the Contemnor Contempt/Sanctions Order (dkt. 291, p.4:10-19). All rights are reserved for either side to seek to modify the amount and frequency in future.

(ii) Proof of payment of outstanding sanctions

This Court's review of the docket reflects the Clerk's Office's receipt of three payments of \$700 in sanctions on 6/4/21. But the tentative ruling is that (A) the Contemnor Contempt/Sanctions Order (dkt. 291, p.4:10-19) directed all four of the Contemnors (Debtor, Ms. Freda Wang, The Law Offices of Lynn Chao, and Ms. Lynn Chao) to each pay \$700 in weekly sanctions, and (B) those sanctions began the week of 5/21/21 (so as of the date of this hearing the Contemnors should have made payments for the weeks of 5/21/21, 5/27/21, 6/4/21, and 6/11/21). The tentative ruling is to take up at a future hearing what remedies to impose if the Contemnors do not pay the missing sanctions.

(d) Procedures for establishing full compliance of the 2004 Orders

For the reasons set forth in the Alleged Employees' responsive papers (dkt. 309), the tentative ruling is that the Contemnors have not complied with this Court's direction to propose procedures for establishing compliance with the 2004 Orders. The parties should be prepared to address whether this Court should set additional briefing deadlines or order some other form of relief at this time.

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Proposed orders: The Alleged Employees are directed to lodge a proposed order via LOU within 7 days after the hearing date and attach a copy of this tentative ruling, thereby adopting it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED. See dkt. 253, 289 (sanctions v. Young Young Foods) and dkt. 276, 291 (sanctions v. Debtor, ChaoLaw, etc.).]

Party Information

Debtor(s):

GL Master Inc

Represented By
Thomas J Polis

Trustee(s):

Edward M Wolkowitz (TR)

Pro Se

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#4.00 Cont'd Order to Show Cause re: Civil Contempt Against Young Young Food LLC, and For Sanctions fr. 10/27/20, 12/1/20, 12/22/20, 1/5/21, 1/26/21, 4/27/211, 5/11/21, 6/1/21

Docket 213

Tentative Ruling:

Tentative Ruling for 6/15/21:

Appearances required.

(1) Current issues

(a) Background

Young Young Food, LLC ("YYF") has filed a Notice of Appeal (dkt. 293, amended by dkt. 296, "NOA") of this Court's "Order Re: Sanctions for Civil Contempt Against Young Young Food LLC" (dkt. 289, the "YYF Contempt/Sanctions Order").

The parties have not briefed the scope of this Bankruptcy Court's jurisdiction in view of the pending appeal. In general, this Bankruptcy Court's understanding is that: it is deprived of jurisdiction over any matter as to which any appellate court is exercising jurisdiction; but in the absence of a stay pending appeal this Bankruptcy Court retains jurisdiction to implement or enforce its existing orders, as well as jurisdiction over all other matters in the bankruptcy case. See, e.g., *In re Sherman*, 491 F.3d 948, 967 (9th Cir. 2007) ("The timely filing of a notice of appeal to either a district court or bankruptcy appellate panel will typically divest a bankruptcy court of jurisdiction over those aspects of the case involved in the appeal" but not on any other issues in the case, and even with respect to the order or judgment on appeal the bankruptcy court retains jurisdiction "to implement or enforce the judgment or order, although it may not alter or expand upon the judgment"; and "[i]f a party wants to stay all of the proceedings in bankruptcy court while an appeal is pending, it must file a motion for a stay." (citations and internal quotation marks omitted).

In addition, now that the applicable rules have been augmented with a rule concerning "indicative rulings" (renumbered Rule 8008, Fed. R. Bankr.

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P.), this Bankruptcy Court is authorized to do several things notwithstanding any pending appeal. Specifically, with respect to a motion as to which this Bankruptcy Court "lacks authority to grant because of an appeal," it may "(1) defer considering the motion; (2) deny the motion; or (3) state that the court would grant the motion if the court where the appeal is pending remands for that purpose, or state that the motion raises a substantial issue."

Based on this Bankruptcy Court's understanding of the matter on appeal - and in the absence of anything on the docket suggesting otherwise - the tentative ruling is that this Bankruptcy Court has jurisdiction to implement and enforce the YYF Contempt/Sanctions Order. In the alternative, the tentative ruling is that this Bankruptcy Court has jurisdiction to issue indicative rulings relating to the implementation and enforcement of that order.

(b) YYF Contempt/Sanctions Order (dkt. 289)

There is no tentative ruling. The parties should be prepared to address whether there are any outstanding issues for this Court to address at this time.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED. See dkt. 253, 289 (sanctions v. Young Young Foods) and dkt. 276, 291 (sanctions v. Debtor, ChaoLaw, etc.).]

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Debtor(s):

GL Master Inc

Represented By
Thomas J Polis

Trustee(s):

Edward M Wolkowitz (TR)

Pro Se

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2:18-12429 Dana Hollister

Chapter 11

Adv#: 2:18-01203 The Bird Nest, LLC et al v. Hollister

#5.00 Cont'd Status Conference re: Complaint to Determine
Non-Dischargeability of Debt
fr. 8/14/18, 12/18/18, 6/4/19, 11/26/19, 12/10/19,
6/16/20, 12/08/20, 1/21/21

Docket 1

Tentative Ruling:

Tentative Ruling for 6/15/21:

Please see the tentative ruling for the Status Conference in the lead
Bankruptcy case (Calendar No. 5.10, 6/15/21 at 2:00 p.m.). This adversary
proceeding is stayed. See adv.dkt.8, 9.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Dana Hollister

Represented By
David A Tilem

Defendant(s):

Dana Hollister

Pro Se

Plaintiff(s):

The Bird Nest, LLC

Represented By
Howard Steinberg

Roman Catholic Archbishop of Los Angeles

Represented By
Howard Steinberg

The California Institute of the Sisters

Represented By
Howard Steinberg

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2:18-12429 Dana Hollister

Chapter 11

#5.10 Cont'd Status Conference re: Chapter 11 Case
fr. 3/9/18, 3/20/18, 3/21/18, 4/17/18, 5/3/18, 5/7/18,
6/12/18, 6/22/18, 7/16/18, 8/3/18, 9/4/18, 11/6/18,
01/15/19, 1/29/19, 2/26/19, 3/26/19, 4/16/19;
04/29/19, 05/21/19, 5/28/19, 6/18/19, 7/2/19; 08/06/19,
10/15/19, 11/12/19, 11/21/19, 01/14/20, 3/3/20, 3/10/20,
04/07/20, 5/19/20, 6/16/20, 6/30/20, 7/14/20, 7/28/20,
8/4/20, 09/15/20, 10/27/20, 12/08/20, 1/21/21, 02/25/21,
3/23/21, 4/27/21, 6/1/21

Docket 1

Tentative Ruling:

Tentative Ruling for 6/15/21:

Continue as set forth below. Appearances are not required on 6/15/21.

(1) Current issues

This Court is not aware of any issues that would warrant a status conference at this time.

(2) Deadlines/dates. This case was filed on 3/6/18.

(a) Bar date: 8/24/18 (dkt. 367, timely served per dkt. 383)

(b) Plan/Disclosure Statement: TBD. See the **revised** "Procedures of Judge Bason" (available at www.cacb.uscourts.gov) (search for "Chapter 11: Plan").

(c) Continued status conference: 7/8/21 at 1:00 p.m. to be held contemporaneous with the status hearing on the trial for the motion for relief from stay of Bobs LLC. No written status report required.

(d) Limited Notice: A "Core Service List" has been established (see dkt.97, p.3:4-17, dkt.195), as modified by any updates (contact Debtor for latest list).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances

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Dana Hollister

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required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 6/1/21:

Appearances required.

(1) Current issues

(a) Motion of Bobs LLC ("Bobs") For Relief From The Automatic Stay ("R/S Motion," dkt. 936), Prior Responses by various parties in interest (dkt. 948-952), Bobs' Prior Reply (dkt. 958, 959), Joinder in Prior Response (dkt. 1005), Bobs' Supplement (dkt. 1413), Supp. Response of Dean G. Rallis, Jr., Court Appointed Agent ("Agent") (dkt. 1415), Agent's Evidentiary Objections (dkt. 1416), Supp. Joinder of The Bird Nest, LLC ("Bird") and the Roman Catholic Archbishop of Los Angeles and the California Institute of the Sisters of the Most Holy and Immaculate Heart of the Blessed Virgin Mary (collectively, "Church") (dkt. 1417)

Bobs asserts that its debt secured by the Paramour, combined the first lien debt, total near \$17 million, and that the Paramour is worth no more than \$14.5 million based on an appraisal obtained from Chris Adelman. Dkt. 1413, pp. 4:8–9, 6:24–26. In response, the Agent and others note the age and other alleged deficiencies in the Adelman appraisal and point to several appraisals which value the Paramour at anywhere from \$36 million to \$48 million. Dkt. 1415, p. 5:3–9.

The tentative ruling is that the age of the Adelman appraisal goes to its weight, not admissibility, and in any event the appraisals on which the Agent and others rely have also grown somewhat stale during the continuances of this matter. Accordingly, the tentative ruling is to continue this matter for all parties to obtain revised appraisals.

The Agent requests that, if this Court does not deny the R/S Motion at

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Dana Hollister

Chapter 11

this point, it set an evidentiary hearing to value the Paramour. Likewise, Bobs requests that this Court first hold an evidentiary hearing to determine the value of the Paramour and defer until later other issues such as the dollar amount of its secured claim.

The tentative ruling is that it is appropriate to set an evidentiary hearing at this time. It also appears to be appropriate to defer any determination of the dollar amount of Bobs' claim that is secured by the Paramour, because the difference in the secured claim amount is dwarfed by the range of valuations, so it appears to be most efficient to determine the value first. As to the evidentiary objections (dkt. 952, 1416) to Mr. Shy's declarations, and Bobs' response (dkt. 959), the tentative ruling is to overrule the first of the objections addressed by Bobs (dkt.959, p.2) but sustain the remaining objections, without prejudice to presenting alternative evidence on the issues. As for the junior lienholders' standing, the parties are directed to address that issue at the hearing.

Regarding the procedures for a future evidentiary hearing, the tentative ruling is that it is appropriate to balance the fact that, on the one hand, (i) matters involving relief from the automatic stay generally are "summary" proceedings, and this Bankruptcy Court has already noted that vast sums have been spent on litigation in this case, and (ii) on the other hand, this particular litigation appears to warrant the expenditure of reasonable additional funds because so much appears to hinge on the outcome of the R/S Motion. In other words, the tentative ruling is to establish procedures that are neither too "summary" nor in the nature of "scorched earth" litigation that would deplete the bankruptcy estate. *See generally In re Johnson*, 756 F.2d 738, 740 (9th Cir.1985) (relief from stay matters are properly "handled in a summary fashion") (overruled on other grounds by *Travelers Cas. & Sur. Co. v. Pac. Gas & Elec. Co.*, 549 U.S. 443 (2007)). *See also* Mem. Dec. Denying Debtor's Financing Motion (dkt. 1382), p. 19:12-15 (administrative expenses allegedly approaching \$4 million).

With the foregoing parameters in mind, the parties are directed to address how much time they will need to revise appraisals, depose appraisers, conduct any other relevant discovery, prepare for an evidentiary hearing on valuation, and conduct their examination at an evidentiary hearing. *See* Mem. Dec. Denying Debtor's Financing Motion (dkt. 1382), n. 7 at p. 15:18-22 ("Bobs could file a motion for relief from the automatic stay" but that could take substantial time because "in all likelihood there would have to

**United States Bankruptcy Court
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Los Angeles
Judge Neil Bason, Presiding
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Tuesday, June 15, 2021

Hearing Room 1545

2:00 PM

CONT... Dana Hollister

Chapter 11

be discovery and a trial on valuation").

(2) Deadlines/dates. This case was filed on 3/6/18.

(a) Bar date: 8/24/18 (dkt. 367, timely served per dkt. 383)

(b) Plan/Disclosure Statement: TBD. See the **revised** "Procedures of Judge Bason" (available at www.cacb.uscourts.gov) (search for "Chapter 11: Plan").

(c) Continued status conference: 6/15/21 at 2:00 p.m. to be held contemporaneous with the hearing on the related adversary proceeding. No written status report required.

(d) Limited Notice: A "Core Service List" has been established (see dkt.97, p.3:4-17, dkt.195), as modified by any updates (contact Debtor for latest list).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED (for principal issues, see dkt. 238, 239, 528, 547, 557, 1330, 1382-83, 1410)]

Party Information

Debtor(s):

Dana Hollister

Represented By
David A Tilem
Mark A Kressel
Alan M Insul

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, June 15, 2021

Hearing Room 1545

2:00 PM

2:20-17525 Nicole R. Prause

Chapter 7

Adv#: 2:20-01662 Minc v. Prause

#6.00 Cont'd Status Conference re: Complaint for Monetary and Equitable Relief and Demand for a Jury Trial fr. 01/26/21, 2/9/21, 03/02/21, 4/6/21

Docket 1

Tentative Ruling:

Tentative Ruling for 6/15/21:
Appearances required.

This Court continued the 4/6/21 hearing on this matter based on the representations of the parties that they had found a new mediator. There is no tentative ruling, but the parties should be prepared to address the status of the mediation proceedings.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 4/6/21:
Appearances required.

This Court continued the 3/2/21 hearing on this matter to allow the parties an opportunity to find a mediator. This Court set a deadline of 3/16/21 to file a mediation order (meanwhile, this mediation remains stayed, adv.dkt.10).

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Tuesday, June 15, 2021

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CONT...

Nicole R. Prause

Chapter 7

The Court has reviewed Plaintiff's Notice of Status of Mediation (adv. dkt. 11). There is no tentative ruling, but the parties should be prepared to address the status of their efforts to locate a new mediator.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Nicole R. Prause

Represented By
Michael Jay Berger

Defendant(s):

Nicole R. Prause

Represented By
Michael Jay Berger

Plaintiff(s):

Aaron M Minc

Pro Se

Trustee(s):

Elissa Miller (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, June 15, 2021

Hearing Room 1545

2:00 PM

2:16-21559 David MacMillan

Chapter 7

#7.00 Cont'd hrg re: Trustee's Objection to Amended Claim of Wyndham
Vacation Resorts, Inc.
fr 3/23/21, 4/6/21, 4/27/21, 5/11/21

Docket 522

***** VACATED *** REASON: Continued to 7/6/21 at 2:00 p.m. pursuant to
the parties' stipulation (dkt. 545) and order thereon**

Tentative Ruling:

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr
Christian T Kim

Peter J Mastan (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, June 15, 2021

Hearing Room 1545

2:00 PM

2:19-10552 Attitude Marketing, Inc.

Chapter 7

#8.00 Cont'd hrg re: Trustee's Objection to Amended
Claim of Wyndham Vacation Resorts, Inc.
fr 3/23/21, 4/6/21, 4/27/21, 5/11/21

Docket 191

*** VACATED *** REASON: Continued to 7/6/21 at 2:00 p.m. pursuant to
the parties' stipulation (dkt. 219) and order thereon

Tentative Ruling:

Party Information

Debtor(s):

Attitude Marketing, Inc.

Represented By
James A Dumas Jr
Christian T Kim

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
Christian T Kim
James A Dumas Jr

**United States Bankruptcy Court
Central District of California
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Thursday, June 24, 2021

Hearing Room 1545

8:00 AM
2:00-00000

Chapter

#1.00 ZoomGov Instructions for all matters on today's calendar:

Meeting ID: 161 224 6395

Password: 806044

Meeting URL: <https://cacb.zoomgov.com/j/1612246395>

Telephone: +1 669 254 5252 or +1 646 828 7666 or 833 568 8864 (Toll Free)

Please connect at least 5 minutes before the start of your hearing, and wait with your microphone muted until your matter is called. You do not need to call Chambers for advance approval. ZoomGov appearances are free

Docket 0

Tentative Ruling:

- NONE LISTED -

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Thursday, June 24, 2021

Hearing Room 1545

8:30 AM

2:17-16296 Jeffrey Ralph, Sr.

Chapter 13

#1.00 Hrg re: Motion under Local Bankruptcy Rule 3015-1
(n) and (w) to modify plan or suspend plan payments

Docket 48

Tentative Ruling:

Appearances are not required.

Grant pursuant to the Chapter 13 Trustee's Amended Comments (dkt. 53).

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Jeffrey Ralph Sr.

Represented By
Stephen S Smyth

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Thursday, June 24, 2021

Hearing Room 1545

8:30 AM

2:19-24144 **Jacqueline Susanne Lawson**

Chapter 13

#2.00 Hrg re: Motion under Local Bankruptcy Rule 3015-1
(n) and (w) to modify plan or suspend plan payments

Docket 37

Tentative Ruling:

Appearances are not required.

Grant pursuant to the Chapter 13 Trustee's Comments (dkt. 39).

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Jacqueline Susanne Lawson

Represented By
Christopher J Langley
Michael Smith

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Thursday, June 24, 2021

Hearing Room 1545

8:30 AM

2:16-25361 Sandy G. Villanueva and Antonio Figueroa

Chapter 13

#3.00 Hrg re: Notice of Intent to File Trustee's Final Report and Account,
Obtain Discharge of Chapter 13 Trustee and Close Case

Docket 73

Tentative Ruling:

Appearances are not required.

Approve the Chapter 13 Trustee's proposed final report (dkt. 73) subject to inclusion in the order approving that report the following language, based on the limited objection (dkt. 75): "Nothing in this order or in the final report shall be construed to limit the rights of Greenwood Industrial LLC to enforce its judgment, remedies, or other rights under applicable nonbankruptcy law."

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Sandy G. Villanueva

Represented By
Michael E Plotkin

Joint Debtor(s):

Antonio Figueroa

Represented By
Michael E Plotkin

**United States Bankruptcy Court
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Los Angeles
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Thursday, June 24, 2021

Hearing Room 1545

8:30 AM

CONT... Sandy G. Villanueva and Antonio Figueroa

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Thursday, June 24, 2021

Hearing Room 1545

8:30 AM

2:16-24543 Marina Moreno Romero

Chapter 13

#4.00 Hrg re: Debtor's Objection to the Amended Claim of
Capital One Auto Finance [Claim 5]

Docket 75

Tentative Ruling:

Appearances required.

(1) Cost/benefit analysis

The posted "Procedures of Judge Bason" (available at www.cacb.uscourts.gov) state:

§ 502: claim objections & cost/benefit analysis. When objecting to claims, be sure to include an analysis of whether the costs of preparing and litigating the claim objection (administrative expenses) do not exceed the anticipated benefits (reductions in claims). For example, if the anticipated dividend is small or 0% then the attorney fees incurred in prosecuting your claim objection to any general unsecured claim probably will exceed the benefit to the bankruptcy estate/debtor, so filing that objection would be a waste of the bankruptcy estate's (and everyone else's) resources (unless, for example, the claim is nondischargeable, in which event the attorney fees might well be justified). [Emphasis added.]

Debtor's claim objection fails to address the emphasized language. It states only:

Amended Claim 5 ("Amended Claim") of Capital One Auto Finance ("COAF") is for \$14,530.83. Based on the evidence attached to this Objection, Ms. Romero believes the debt may be invalid. Ms. Romero's counsel, Mr. Nicholas Gebelt, estimates the costs and fees associated with this Objection will be approximately \$2,500.

Therefore, the benefit of the successful prosecution of this Objection will be approximately \$12,000. [Emphasis added.]

The emphasized language is false. Debtor's confirmed chapter 13

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8:30 AM

CONT... Marina Moreno Romero

Chapter 13

plan (dkt.20, 23) is not a 100% plan, so the benefit cannot possibly be \$12,000. For example, if the dividend were 1% then a reduction from \$14,530.83 to \$0 would reduce the distributions on this claim from \$145.01 to \$0, but at an estimated expense of \$2,500 there would be a net loss to the estate of \$2,354.99 ($\$145.01 - \$2,500.00 = -\$2,354.99$).

In addition, the same net loss would apply if the dividend were 100% but the chances of success were only 1%. Debtor's counsel fails to apply any discount to account for the possibility that the claim objection will not be successful, or will only be partially successful.

The tentative ruling is to set a **deadline of 7/1/21** for counsel for Debtor to file a declaration specifying the current dividend for creditors, the likelihood of success, and actual calculations demonstrating whether the costs of this claim objection are worth the discounted value of a potential successful outcome. Of course, many of these things might not be capable of being determined with precision; but that is not the point. The point is that counsel for Debtor has a duty to exercise billing judgment, and should demonstrate that a reasonable attempt has been made to exercise that judgment. If the declaration is sufficient, the tentative ruling is that this Court will not make any change to the normally process for allowing fees (and, conversely, if the declaration is insufficient, this Court may issue an order disallowing some fees for this claim objection).

(2) Merits

The parties are directed to address whether the collateral was in fact surrendered to Capital One Auto Finance ("Capital One") and, if so, the value of the collateral at that time (probably measured by any sale price received by Capital One when it sold the vehicle to a third party, if that is what happened), and any other reductions or other adjustments to the filed proof of claim. The tentative ruling is that the allowed (unsecured) claim will be the net dollar amount of this calculation (including a credit for whatever payments have been made by Debtor or Debtor's daughter).

In view of the apparent paucity of reliable records, the parties are encouraged to compromise, rather than incur the expense of litigation that might well exceed the net benefit to either party.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances

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CONT... **Marina Moreno Romero**

Chapter 13

required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Marina Moreno Romero

Represented By
Nicholas W Gebelt

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Hearing Room 1545

8:30 AM

2:20-18427 Bedros Missak Yazijian

Chapter 13

#5.00 Cont'd hrg re: Objection to Proof of Claim Filed by Susan Go,
Successor Trustee of the Edmond B. Nebhan Revocable
Trust Dated August 27, 2014 Claim #7
fr. 1/21/21, 3/18/21, 5/20/21

Docket 26

***** VACATED *** REASON: Resolved by motion to approve compromise
(dkt. 57) and order thereon (dkt. 61).**

Tentative Ruling:

Party Information

Debtor(s):

Bedros Missak Yazijian

Represented By
Roland H Kedikian

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Thursday, June 24, 2021

Hearing Room 1545

8:30 AM

2:20-18844 Graciela Gomez

Chapter 13

#6.00 Cont'd hrg re: Amended Motion in Individual Case
for Order Authorizing Use of Cash Collateral
fr. 12/17/20, 2/18/21, 3/18/21, 04/22/21, 5/20/21

Docket 32

*** VACATED *** REASON: Mooted by stipulation re use of cash
collateral (dkt. 59), and order thereon.

Tentative Ruling:

Party Information

Debtor(s):

Graciela Gomez

Represented By
Christine A Kingston

Movant(s):

Graciela Gomez

Represented By
Christine A Kingston

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Hearing Room 1545

8:30 AM

2:18-10776 Alfredo Medina and Jen G Morales

Chapter 13

#7.00 Cont'd hrg re: Motion Under Local Bankruptcy Rule 3015-1 (n) and (w) to Modify Plan or Suspend Plan Payments fr. 04/22/21

Docket 53

Tentative Ruling:

Tentative Ruling for 6/24/21:

Appearances required.

Based on the arguments and representations of the parties at the hearing on 4/22/21 this Court continued this matter to this date to allow time for the Debtors to submit additional evidence in support of the motion. There is no tentative ruling, but the parties should be prepared to update this Court on the status of this motion.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 4/22/21:

Appearances required, absent either (1) an agreement with the Chapter 13 Trustee's office to further continue this matter or (2) withdrawal of the motion by Debtor. There is no tentative ruling, but the parties should be prepared to address the issues raised by the Chapter 13 Trustee (dkt. 55).

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8:30 AM

CONT... Alfredo Medina and Jen G Morales

Chapter 13

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Alfredo Medina

Represented By
Julie J Villalobos

Joint Debtor(s):

Jen G Morales

Represented By
Julie J Villalobos

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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8:30 AM

2:19-21677 Jan Michael Foster

Chapter 13

#8.00 Cont'd hrg re: Motion Under Local Bankruptcy Rule 3015-1 (n) and (w) to Modify Plan or Suspend Plan Payments fr. 04/22/21, 5/20/21

Docket 61

Tentative Ruling:

Tentative Ruling for 6/24/21:

Appearances are not required.

Grant on the terms set forth in the Chapter 13 Trustee's response (dkt. 76).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 5/20/21:

Appearances required.

This Court continued the 4/22/21 hearing on this matter to this date pursuant to the request of the parties and Debtor's exploration of a possible conversion to chapter 7. There is no tentative ruling, but the parties should be prepared to address (a) the issues raised by the Chapter 13 Trustee (dkt. 63) and/or (b) conversion to chapter 7 or dismissal of this case.

If appearances are not required at the start of this tentative ruling but you

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Thursday, June 24, 2021

Hearing Room 1545

8:30 AM

CONT... Jan Michael Foster

Chapter 13

wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 4/22/21:

Appearances required, absent either (1) an agreement with the Chapter 13 Trustee's office to further continue this matter or (2) withdrawal of the motion by Debtor. There is no tentative ruling, but the parties should be prepared to address the issues raised by the Chapter 13 Trustee (dkt. 63).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Jan Michael Foster

Represented By
Stephen L Burton

**United States Bankruptcy Court
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Los Angeles
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Hearing Room 1545

8:30 AM

CONT... Jan Michael Foster

Chapter 13

Movant(s):

Jan Michael Foster

Represented By
Stephen L Burton

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Thursday, June 24, 2021

Hearing Room 1545

9:30 AM

2:00-00000

Chapter

**#1.00 PLEASE BE ADVISED THAT THE CHAPTER 13 9:30 AM
CONFIRMATION CALENDAR CAN BE VIEWED ON THE
COURT'S WEBSITE (www.cacb.uscourts.gov) UNDER:
JUDGES>BASON, N.>CHAPTER 13>CONFIRMATION HEARINGS CALENDAR**

Docket 0

Tentative Ruling:

- NONE LISTED -

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Thursday, June 24, 2021

Hearing Room 1545

11:00 AM
2:00-00000

Chapter

**#1.00 PLEASE BE ADVISED THAT THE CHAPTER 13 HEARINGS
at 11:00 AM CAN BE VIEWED ON THE COURT'S WEBSITE
(www.cacb.uscourts.gov) UNDER: JUDGES>BASON, N.>CHAPTER 13**

Docket 0

Tentative Ruling:

- NONE LISTED -

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, June 24, 2021

Hearing Room 1545

1:00 PM

2:18-15829 Philip James Layfield

Chapter 7

#1.00 Hrg re: Motion for relief from stay [NA]

RODNEY A PIMENTEL
vs
DEBTOR

Docket 317

Tentative Ruling:

Appearances required.

There is no tentative ruling. The parties are directed to address (a) why this matter is appropriate to address on shortened time, including why the motion could not have been filed sooner; (b) whether Mr. Pimentel is seeking relief from the automatic stay (i) as to *in personam* claims Debtor individually and (ii) as to any *in rem* claims against property in which an interest may be asserted by the bankruptcy estate of this Debtor (Mr. Layfield) or the bankruptcy estate of another debtor (Layfield & Barrett, or L&B); (c) whether the opposition by Debtor (Mr. Layfield) (dkt. 321) should be stricken because it cites no legal authority and includes hundreds of pages of exhibits without specifying what portions of any exhibits are relevant to any points in his opposition papers; and (d) all other relevant issues.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, June 24, 2021

Hearing Room 1545

1:00 PM

CONT... Philip James Layfield

Chapter 7

Party Information

Debtor(s):

Philip James Layfield

Represented By
Anthony M Solis

Movant(s):

Rodney A Pimentel

Represented By
Yana G Henriks

Trustee(s):

Wesley H Avery (TR)

Represented By
Jeffrey I Golden
Faye C Rasch
Beth Gaschen
Ryan W Beall

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 29, 2021

Hearing Room 1545

9:00 AM

2:00-00000

Chapter

#1.00 ZoomGov Instructions for all matters on today's calendar:

Meeting ID: 161 590 1810

Password: 432814

Meeting URL: <https://cacb.zoomgov.com/j/1615901810>

Telephone: +1 669 254 5252 or +1 646 828 7666 or 833 568 8864 (Toll Free)

Please connect at least 5 minutes before the start of your hearing, and wait with your microphone muted until your matter is called. You do not need to call Chambers for advance approval. ZoomGov appearances are free

Docket 0

Tentative Ruling:

- NONE LISTED -

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 29, 2021

Hearing Room 1545

10:00 AM

2:19-11137 Elias Israel Corona

Chapter 13

#1.00 Hrg re: Motion for relief from stay [RP]

U.S. BANK NATIONAL ASSOCIATION
VS
DEBTOR

Docket 37

***** VACATED *** REASON: APO**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Elias Israel Corona

Represented By
Matthew D. Resnik

Movant(s):

U.S. Bank National Association, as

Represented By
Renee M Parker

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 29, 2021

Hearing Room 1545

10:00 AM

2:20-16242 Magdalena Avila

Chapter 13

#2.00 Hrg re: Motion for relief from stay [RP]

BBV PROFIT SHARING PLAN
vs
DEBTOR

Docket 92

Tentative Ruling:

Grant in part as follows. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

The tentative ruling is to issue an order granting relief under 11 U.S.C. 362(d)(1) as follows:

If relief from the automatic stay of 11 U.S.C. 362(a) is granted to permit the holder of the obligation secured by the first position deed of trust (the "1st Lienholder") against the property at 1015 Via Carmelita, Burbank, CA 91501 (the "Property") to pursue its remedies with respect to the Property, then BBV Profit Sharing Plan ("BBV") is authorized to lodge a proposed order granting BBV relief from the automatic stay, effective as of the same date as relief to the 1st Lienholder, such that BBV may pursue its own remedies with respect to the Property, including without limitation foreclosure and curing any default under the obligation held by the 1st Lienholder.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, June 29, 2021

Hearing Room 1545

10:00 AM

CONT... Magdalena Avila

Chapter 13

appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Magdalena Avila

Represented By
Stephen S Smyth

Movant(s):

BBV profit sharing plan

Represented By
Harris L Cohen

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 29, 2021

Hearing Room 1545

10:00 AM

2:20-16242 Magdalena Avila

Chapter 13

#2.10 Cont'd hrg re: Motion for relief from stay [RP]
fr. 6/15/21

THE BANK OF NEW YORK MELLON
VS
DEBTOR

Docket 85

***** VACATED *** REASON: APO**

Tentative Ruling:

Party Information

Debtor(s):

Magdalena Avila

Represented By
Stephen S Smyth

Movant(s):

The Bank of New York Mellon

Represented By
Sean C Ferry
Eric P Enciso

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 29, 2021

Hearing Room 1545

10:00 AM

2:21-10099 Christopher Herrera

Chapter 13

#3.00 Hrg re: Motion for relief from stay [RP]

BANKUNITED N.A.
vs
DEBTOR

Docket 43

***** VACATED *** REASON: APO**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Christopher Herrera

Represented By
Steven Abraham Wolvek

Movant(s):

BankUnited N.A.

Represented By
Robert P Zahradka
Megan E Lees

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 29, 2021

Hearing Room 1545

10:00 AM

2:21-13641 Ashot Khachatryan

Chapter 13

#4.00 Hrg re: Motion for relief from stay [RP]

GREENDAY CAPITAL, LLC
vs
DEBTOR

Docket 18

Tentative Ruling:

Appearances are not required.
Grant as set forth below.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1), (d)(2), and (d)(4).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Relief notwithstanding future bankruptcy cases.

Grant the following relief pursuant to 11 U.S.C. 362(d)(4) and the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

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Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, June 29, 2021

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CONT...

Ashot Khachatryan

Chapter 13

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is sufficient evidence and notice.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Ashot Khachatryan

Represented By

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, June 29, 2021

Hearing Room 1545

10:00 AM

CONT... Ashot Khachatryan

Chapter 13

Stephen L Burton

Movant(s):

Greenday Capital, LLC

Represented By
Aslan Khodorovsky

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 29, 2021

Hearing Room 1545

10:00 AM

2:21-12832 Alexander Zerkovsky

Chapter 7

#5.00 Hrg re: Motion for relief from stay [NA]

KATHLEEN AND PATRICK STONE
vs
DEBTOR

Docket 15

Tentative Ruling:

Appearances are not required.

Grant as set forth below.

Proposed order: This Court will prepare an order after the hearing date.

Key documents reviewed (in addition to motion papers): Debtor's opposition (dkt. 17), no reply is on file

Analysis:

(1) Notice

Debtor highlights that the motion papers were not served until 6/9/21 (20 days before the hearing) (see dkt. 15 and LBR 9013-1(d)(2) requiring 21 days' notice). But the Posted Procedures of Judge Bason's (available at www.cacb.uscourts.gov) permit parties to file this type of motion on shortened time - 14 days' notice - without prior approval.

True, Movants failed to modify the local form of notice to state the foregoing, and to note that the deadline for any opposition is five calendar days before the hearing date. But Debtor has not alleged or provided evidence of any prejudice, so the tentative ruling is to overrule Debtor's objection to Movants' notice.

(2) The automatic stay does not apply

The tentative ruling is to grant the motion under 11 U.S.C. 362(c)(3) and (j): there is no automatic stay because (a) Debtor's prior case (#2:20-

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Los Angeles
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CONT... Alexander Zerkovsky

Chapter 7

bk-15695-NB) was dismissed (on 10/26/20) within one year before this case was filed (on 4/7/21), (b) that dismissal was not under 11 U.S.C. 707(b), and (c) no finding of good faith was timely sought and obtained. The automatic stay has terminated both as to Debtor *in personam* and as to property of Debtor. See *In re Reswick*, 446 B.R. 362 (9th Cir. BAP 2011); *In re Hernandez*, case no. 2:11-bk-53730-NB, docket #40 (Memorandum Decision).

In the alternative and in addition, the tentative ruling is that the automatic stay does not apply pursuant to this Court's order issued in Debtor's prior case, which provides "[t]his order is binding and effective in any bankruptcy case commenced by or against the Debtor for a period of 180 days, so that no further automatic stay shall arise in that case as to the nonbankruptcy action." *Id.* at p.2, para. "(9)". Because Debtor commenced this case on 4/7/21, which is within the 180-day period contemplated by that Order, no automatic stay applies in this case as against Movants.

(3) Alternative relief: if the automatic stay were to apply for some reason (which it does not), there is cause to grant relief

In the alternative and in addition, the tentative ruling is to grant relief from the automatic stay as follows.

Note regarding mootness: Judge Bason's standard tentative ruling is as follows. For three reasons the above tentative ruling that there *is no stay* does not moot requests for relief from whatever stay might apply. First, such *alternative* rulings are appropriate because (i) the very nature of *tentative* rulings is that this Court could be persuaded to depart from any one of them, and (ii) a *final* ruling on any one issue could be reversed on appeal. Second, even if there is currently no stay, that could change - *e.g.*, if there is no stay because of dismissal of this bankruptcy case, such dismissal could be vacated and that might reimpose the stay even if there is a lack of adequate protection, or other grounds why the stay should not apply, and therefore the movant will suffer cognizable harm unless the issues are addressed now (Judge Bason regularly vacates dismissals based on stipulations or other good cause). Third, if the motion includes any request for relief as to *past* acts (annulment) or *future* cases (*in rem* relief), those things are still at issue even if there is no *current* automatic stay. See *In re Aheong*, 276 B.R. 233 (9th Cir. BAP 2002). For all of these reasons, the tentative ruling is that it is

**United States Bankruptcy Court
Central District of California
Los Angeles
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CONT... Alexander Zerkovsky

Chapter 7

appropriate to address the following issues.

On the merits, the tentative ruling is to terminate the automatic stay under 11 U.S.C. 362(d)(1). Debtor argues that Movants do not specify what "cause" they assert for relief; but Movants implicitly rely on the same cause that persuaded this Court to grant them relief in Debtor's prior bankruptcy case. See R/S Motion (Case No. 2:20-bk-15695-NB, dkt. 39) and R/S Order (dkt. 41). In that case Movants established that Debtor filed that bankruptcy case without notice to them, and then attempted to use that bankruptcy case to render void the \$35,000 arbitration award against Debtor in favor of Movants. That conduct was and is cause to grant Movants the relief they seek.

In addition, this Court's records show that Debtor's prior bankruptcy case was dismissed for infeasibility. Debtor's history of having used an infeasible bankruptcy case to frustrate Movants' attempts to collect their arbitration award is alternative and additional cause for relief from any automatic stay in this case (if any such stay existed, which it does not).

(4) Relief notwithstanding future bankruptcy cases.

The tentative ruling is that Debtor's conduct described above establishes that the filing of this bankruptcy case was part of a scheme to hinder, delay, or defraud Movants and that it is appropriate to grant relief that will be effective notwithstanding any future bankruptcy cases under the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017):

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in

**United States Bankruptcy Court
Central District of California
Los Angeles
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CONT... Alexander Zerkovsky Chapter 7

section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is sufficient evidence and notice.

(5) Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)

(3).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Alexander Zerkovsky

Represented By
Khachik Akhkashian

Movant(s):

Kathleen and Patrick Stone

Pro Se

Trustee(s):

Carolyn A Dye (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 29, 2021

Hearing Room 1545

10:00 AM

2:21-14596 Jonathan L Jones

Chapter 13

#6.00 Hrg re: Motion in Individual Case for Order
Imposing a Stay or Continuing the Automatic
Stay as the Court Deems Appropriate

Docket 5

Tentative Ruling:

Grant, subject to the conditions that Debtor may not dismiss this case voluntarily, and any failure to proceed in proper prosecution of this case, including selling the subject real property, may result in conversion or dismissal of this case with a bar against being a debtor in any future bankruptcy case.

Appearances are not required.

This Court has reviewed the motion papers (dkt. 5), the opposition papers (dkt. 10) filed by West Coast Servicing, Inc. ("Creditor"), Debtor's reply papers (dkt. 18), and other filed documents and records in this case and Debtor's prior bankruptcy case (Case No. 2:20-bk-20249-NB) (the "Prior Case").

The tentative ruling is that (1) the burden is on Debtor to show good faith in filing the current bankruptcy petition; (2) there is a presumption that Debtor did not file this case in good faith, which can only be rebutted by clear and convincing evidence; and (3) Debtor has adequately rebutted that presumption on the present record, but only if conditions are imposed (as set forth herein) to assure the proper prosecution of this case.

Analysis:

(1) The automatic stay will terminate 30 days after the petition date unless this Court enters an order extending it

On 11/16/20, the debtor file a voluntary chapter 13 petition commencing the Prior Case. The Prior Case was dismissed at the confirmation hearing on 5/26/21 based on debtor's failure to resolve objections filed by the Chapter 13 Trustee ("Trustee") and Creditor. Seven days later, on 6/2/21, Debtor filed this chapter 13 case. Therefore, the

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CONT...

Jonathan L Jones

Chapter 13

automatic stay will terminate on 7/2/21 if this Court does not extend the stay, pursuant to 362(c)(3):

(3) if a single or joint case is filed by or against a debtor who is an individual in a case under chapter 7, 11, or 13, and if a single or joint case of the debtor was pending within the preceding 1-year period but was dismissed, other than a case refiled under a chapter other than chapter 7 after dismissal under section 707(b) –

(A) the stay under subsection (a) with respect to any action taken with respect to a debt or property securing such debt or with respect to any lease shall terminate with respect to the debtor on the 30th day after the filing of the later case;

(B) on motion of a party in interest for continuation of the automatic stay and upon notice and a hearing, the court may extend the stay in particular cases as to any or all creditors (subject to such conditions or limitations as the court may then impose) after notice and a hearing completed before the expiration of the 30-day period only if the party in interest demonstrates that the filing of the later case is in good faith as to the creditors to be stayed. [Emphasis added.]

The following principles guide this Court's application of 11 U.S.C. 362(c) to this case. First, there is authority that if the automatic stay is not continued beyond 30 days then it terminates in all aspects, *i.e.*, not only as to the debtor individually but as to all parties and the bankruptcy estate. *In re Reswick*, 446 B.R. 362 (9th Cir. BAP 2011); *In re Hernandez*, case no. 2:11-bk-53730-NB, docket #40 (Memorandum Decision).

Second, there is authority that "good faith" is a factual inquiry, although to the extent the statute defines what is good faith the interpretation of the statute is a legal question. *See generally, e.g., In re Ellsworth*, 455 B.R. 904, 914, 917 (9th Cir. BAP 2011) (holding that good and bad faith in other contexts are factual inquiries). *Cf. U.S. Bank v. Village at Lakeridge, LLC*, 138 S.Ct. 960 (2018) (analyzing what issues are factual and what are legal).

Third, the factual nature of "good faith" does not necessarily mean that live testimony is required. *See, e.g., In re Nicholson*, 435 B.R. 622, 635-36 (9th Cir. BAP 2010). In fact, the tentative ruling is that, just like hearings on

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Los Angeles
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Chapter 13

whether to grant relief from the automatic stay, any hearing on whether to continue the automatic stay is intended to be an expedited, summary proceeding, not a full blown trial. See 11 U.S.C. 362(c)(3)(B) (30 day limit to conclude hearing), *and compare* 11 U.S.C. 362(d)&(e) (30 day limit to conclude hearing) *and In re Johnson*, 756 F.2d 738, 740 (9th Cir. 1995) (summary nature of proceedings on whether to grant relief from stay); *In re Veal*, 450 B.R. 897, 914-15 (9th Cir. BAP 2011) (same, requiring only "colorable" basis for standing to seek relief from stay).

Fourth, the "good faith" inquiry is narrowly focused on the filing of the petition. For example, debtors sometimes argue that because they have a genuine desire to retain a roof over their and their family's heads they are acting in good faith, but the question is not the genuineness of that motive. The question is whether the debtor had a sufficient basis to believe that the current bankruptcy case could be *properly* prosecuted notwithstanding the dismissal of one or more earlier bankruptcy cases. In a reorganization case, such as this one, the tentative ruling is that the test of good faith is analogous to a standard test of whether relief from the automatic stay is appropriate: when the petition was filed, did the debtor have a good faith basis to believe that there would be "a reasonable possibility of a successful reorganization within a reasonable time." *United Savings Assn. v. Timbers of Inwood Forest*, 484 U.S. 365, 376 (1988) (interpreting 11 U.S.C. 362(d)(2)) (citation and internal quotation marks omitted), *and see* 11 U.S.C. 362(d)(3)(A) (similar test in small business cases).

Fifth, a finding of good faith at the inception of the case for the limited purpose of determining whether to continue the automatic stay under 11 U.S.C. 362(c)(3) - for the benefit of both Debtor and creditors - is not necessarily determinative of good faith for any other purposes. See, e.g., 11 U.S.C. 1129(a)(3), *and In re Abdelgadir*, 455 B.R. 896, 900 (9th Cir. BAP 2011).

(2) The tentative ruling is that this case *presumptively* was not filed in good faith, and that presumption is only rebuttable by *clear and convincing* evidence

Creditor argues (dkt. 10, p.2:26-4:3) that this case is presumptively not filed in good faith under 362(c)(3)(C)(i)(I), (II), and (III). Sub-paragraphs "(I)" and "(II)" (quoted below) do not appear to be applicable; but, as Creditor argues, sub-paragraph "(III)" (also quoted below) appears to be applicable

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CONT... Jonathan L Jones

Chapter 13

because (A) Debtor has not asserted any change in Debtor's financial or personal affairs, and alternatively (B) given Debtor's prior failure to sell the property on which Creditor holds a lien there is arguably reason to conclude that this current case will not conclude with a successful sale of the property a Debtor again proposes.

The statute provides, in relevant part:

(C) ... a case is presumptively filed not in good faith (but such presumption may be rebutted by clear and convincing evidence to the contrary) (i) – as to all creditors, if –

(I) more than 1 previous case ... was pending within the preceding 1-year period [not applicable, although Creditor cites this portion of the statute];

(II) a previous case ... was dismissed ... after the debtor failed to --

(aa) file or amend [various documents];

(bb) provide adequate protection as ordered by the court; or

(cc) perform the terms of a plan confirmed by the court

[Creditor cites this portion of the statute but, again, fails to cite any evidence that the foregoing provisions are applicable];

(III) there has not been [x] a substantial change in the financial or personal affairs of the debtor since the dismissal of the next most previous case under chapter 7, 11, or 13 or [y] any other reason to conclude that the later case will be concluded –

...

(bb) if a case under chapter 11 or 13, with a confirmed plan that will be fully performed. [11 U.S.C. 362(c)(3)(C) (emphasis added)]

The tentative ruling is that Creditor under the emphasized language the burden is on Debtor to show, by "clear and convincing" evidence, that he has filed this latest bankruptcy in good faith (whether he has done so is the topic of part "(3)" of this tentative ruling -- this part "(2)" only addresses the presumptions and burdens of proof).

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Jonathan L Jones

Chapter 13

(3) Debtor has rebutted that presumption by "clear and convincing" evidence

The tentative ruling is that, in view of Debtor's plan (dkt. 13), which proposes a 100% distribution to creditors, and Debtor's evidence establishing that the Cherrywood Property has been listed for sale on the Multiple Listing Service (dkt. 18, Ex. A), provided that Debtor really does intend to follow through on selling the subject property and otherwise appearing in proper prosecution of this bankruptcy case. To assure that this is so, the tentative ruling is to impose the conditions set forth at the start of this tentative ruling and below.

(4) Conditions

The tentative ruling is that, in view of Debtor's prior bankruptcy history, Debtor will not be permitted to voluntarily dismiss this case absent further order of this Court. See *In re Rosson*, 545 F.3d 764, 767 (9th Cir. 2008) (citing *Marrama v. Citizens Bank of Massachusetts*, 549 U.S. 365 (2007)) ("a debtor's right to voluntarily dismiss a Chapter 13 case under [11 U.S.C.] 1307(b) is *not* absolute, but is qualified by an implied exception for bad-faith conduct or abuse of the bankruptcy process").

In addition, the tentative ruling is that any failure of Debtor to appear in proper prosecution of this case, including following through on the sale of the subject property, may result in conversion or dismissal of this case and the imposition of a bar against being a debtor in any future bankruptcy case pursuant to 11 U.S.C. 109(g)(1) or other authority.

(5) Conclusion

After the hearing date this Court will prepare an order and the tentative ruling is to include the following language in that order:

The stay of 11 U.S.C. 362(a) applies subject to the following modifications and conditions:

(I) Service and reconsideration. Any party in interest who was not timely served in accordance with FRBP 7004 (incorporated by FRBP 9014(b)) is hereby granted through 14 days after proper service to seek reconsideration, including retroactive relief (under FRBP 9023 and/or 9024). Any such person (a) may set a hearing on 14 days' notice, (b) may appear by telephone (if arrangements are made per Judge Bason's posted procedures), and (c) may present all arguments orally at the hearing (*i.e.*, no written argument

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CONT...

Jonathan L Jones

Chapter 13

is required). If written arguments appear necessary then this court will set a briefing schedule at the hearing.

(II) Reasons. (a) It appears appropriate to impose the automatic stay, and to impose it as to all persons rather than just as to selected persons, because one purpose of the automatic stay is to preventing a "race to collect" that could unfairly advantage some creditors at the expense of others. (b) To prevent possible abuse, this Court provides the foregoing simple process for reconsideration.

(III) Very limited ruling. This Court's tentative ruling to grant the foregoing relief is solely for purposes of this motion, and is not intended to have any binding effect with respect to any future assertions by any party in interest regarding the existence or lack of existence of good faith in any other context.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Jonathan L Jones

Represented By
Stephen S Smyth

Movant(s):

Jonathan L Jones

Represented By
Stephen S Smyth

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Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:20-15990 Adrian T Bean

Chapter 13

#7.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 1/5/21, 3/2/21, 4/6/21, 5/4/21, 6/1/21

MILL CITY MORTGAGE LOAN TRUST 2018-4
vs
DEBTOR

Docket 34

Tentative Ruling:

Tentative Ruling for 6/29/21 (same as for 6/1/21):
Appearances required.

This matter has been continued multiple times since 1/5/21 to allow time for the parties to continue negotiating the terms of an adequate protection stipulation. There is no tentative ruling, but the parties should be prepared to provide an update on the status of those negotiations.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

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10:00 AM

CONT... Adrian T Bean

Chapter 13

Debtor(s):

Adrian T Bean

Represented By
Christopher J Langley

Movant(s):

Mill City Mortgage Loan Trust 2018

Represented By
Sean C Ferry
Kristin A Zilberstein

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 29, 2021

Hearing Room 1545

11:00 AM

2:20-17675 Marlon Calderon Yap and Khristobelle Yap

Chapter 7

#1.00 Hrg re: Motion to Allow Claim 4 filed by Nations Direct Mortgage, LLC as Fully Secured, Not Entitled to a Dividend

Docket 45

Tentative Ruling:

Appearances are not required.
Grant.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Marlon Calderon Yap

Represented By
Michael Jay Berger

Joint Debtor(s):

Khristobelle Yap

Represented By
Michael Jay Berger

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CONT... Marlon Calderon Yap and Khristobelle Yap

Chapter 7

Trustee(s):

John P Pringle (TR)

Represented By
Toan B Chung

**United States Bankruptcy Court
Central District of California
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Hearing Room 1545

11:00 AM

2:19-14902 Connie M Noche

Chapter 7

#2.00 Hrg re: Motion to voluntarily dismiss
chapter 7 case

Docket 48

Tentative Ruling:

Appearances are not required.

Grant.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Connie M Noche

Represented By
Anita Khachikyan

Trustee(s):

Brad D Krasnoff (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 1545

11:00 AM

2:19-21524 Everardo Rodriguez and Miriam Rodriguez

Chapter 7

#3.00 Hrg re: Motion by Chapter 7 trustee to employ used automobile dealer and to sell property of the estate

Docket 70

Tentative Ruling:

Appearances required.

Reasons:

The Trustee is directed to appear to address the following issues:

(a) Notice

This Court notes that the Sale Motion (dkt. 70), filed on 6/1/21, did not attach the appraisal of the subject vehicle, but the Trustee filed a notice of errata (dkt. 74, "Errata") on 6/21/21. The tentative ruling is to excuse the late filing and find that, in the absence of any showing of prejudice, notice is proper.

(b) Public or Private Auction

Based on this Court's review of the papers, it appears the Trustee seeks an order authorizing a private sale of the estate's interest in a 2015 Toyota Tundra (the "Vehicle") and employment of Mountain Motors, Inc. ("Broker") to facilitate that sale for no less than \$25,500, but the Sale Motion and related notice are inconsistent. On the one hand, the Sale Motion refers to a private sale without further hearing (dkt. 70, pp.2:6-8, 4:8-10, 5:18). On the other hand, the Trustee checked the box indicating this will be a public sale in the Notice of Sale of Estate Property (dkt. 72, p.1) and states that the property is to be sold at this hearing (6/29/21 at 11:00 a.m.) (*id.*, p.2). The Trustee should be prepared to clarify whether he seeks a private or public sale and, if it's the latter, the tentative ruling is to set a continued hearing and direct the Trustee to re-serve notice of the auction to ensure that the Vehicle is sold for the highest and best price.

(c) Statement of Disinterestedness

The Sale Motion refers to an attached statement of disinterestedness,

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CONT... **Everardo Rodriguez and Miriam Rodriguez** Chapter 7

but that is not attached to the Sale Motion (dkt. 70) or the Errata (dkt. 74). The tentative ruling is that, *if* this Court is persuaded to grant the Sale Motion, the Trustee will be directed to file a statement of disinterestedness prior to lodging a proposed order.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Everardo Rodriguez

Represented By
Marcus Gomez

Joint Debtor(s):

Miriam Rodriguez

Represented By
Marcus Gomez

Trustee(s):

Wesley H Avery (TR)

Represented By
Stella A Havkin

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11:00 AM

2:18-22904 Sasha Demovsky-Kapustyan

Chapter 13

Adv#: 2:20-01666 Demovsky-Kapustyan v. Vayntrub et al

#4.00 Hrg re: Motion for Default Judgment

Docket 28

Tentative Ruling:

Appearances required. The tentative ruling is to continue this hearing to **8/17/21 at 11:00 a.m.** and meanwhile (1) set a **deadline of 7/9/21** for the parties to lodge proposed order(s) on the Local Form directing them to mandatory mediation, (2) set a **deadline of 7/23/21** for defendant Los Angeles Farmers, Inc. ("Defendant"), if the parties have not resolved their differences by then, to file and serve a motion to vacate the default, to be heard at the continued hearing. (Presumably such a motion for relief from default would be substantially identical in substance to the opposition papers, but it would be properly filed and served as a separate motion, although Defendant is free to file and serve any other form of such a motion.) All of the foregoing is subject to the parties lodging any stipulated order for further continuances, in view of the relatively short time to arrange for and complete mediation before the deadline to file and serve any motion for relief from default.

Key documents reviewed (in addition to motion papers): Defendant's belated opposition (dkt. 30). As of the preparation of this tentative ruling no reply is on file.

Analysis

Defendant's opposition to entry of a default judgment requests that this Court set aside entry of default (see dkt. 30). The tentative ruling is that, on the one hand, this request for relief is procedurally improper and must be brought via a separate motion, and the opposition has been filed very late; but, on the other hand, a continuance appears to be appropriate based on the allegations in the opposition, including that Defendant never received the funds at issue (which, apparently, were paid to the Vayntrubs instead); Defendant is no longer associated with the Vayntrubs; and the other reasons set forth in the opposition papers. See *Horton v. Sierra Conservation Ctr.*

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CONT... **Sasha Demovsky-Kapustyan**

Chapter 13

2010 U.S. Dist. LEXIS 18241, at *2, 2010 WL 743849, at *1 (E.D. Cal. Mar. 2010) ("[e]ntry of default against a defendant cuts off that defendant's right to appear in the action or to present evidence" unless or until the entry of default has been set aside) (citing *Clifton v. Tomb*, 21 F.2d 893, 897 (4th Cir. 1927)).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Sasha Demovsky-Kapustyan

Represented By
Richard T Baum

Defendant(s):

Los Angeles Farmers, Inc.

Pro Se

David Vayntrub

Represented By
Charles Shamash
Joseph E. Caceres

Irena Vayntrub

Represented By
Charles Shamash
Joseph E. Caceres

Absolute Herbal Pain Solutions, Inc.

Represented By
Charles Shamash

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CONT... Sasha Demovsky-Kapustyan

Chapter 13

Plaintiff(s):

Sasha Demovsky-Kapustyan

Represented By
Richard T Baum

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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11:00 AM

2:19-20396 Irene H Kim

Chapter 7

#5.00 Hrg re: Motion to Convert Case from Chapter 7 to 13

Docket 66

Tentative Ruling:

Appearances required.

Deny.

Proposed order: The Trustee is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Key documents reviewed (in addition to motion papers): Trustee's opposition (dkt. 70)

Reasons for denial: The tentative ruling is to deny the motion for the reasons stated in the Trustee's opposition papers (dkt. 70), including that Debtor has not proposed any method of paying creditors and the Trustee in full immediately - e.g., if a refinance of the subject property could do so - and also because Debtor has not filed a reply and has known about these issues for some time. This Court previously raised these issues in its tentative ruling for a status conference in the Trustee's pending adversary proceeding:

Tentative Ruling for 5/4/21:

Appearances required.

(A) Current issues

This Court has reviewed the parties' joint status report (adv. dkt. 40) and the other filed documents and records in this adversary proceeding. This Court has also reviewed Debtor's motion for conversion back to chapter 13 (dkt. 66).

(1) Conversion to chapter 13 and/or dismissal of

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CONT...

Irene H Kim

Chapter 7

Defendant/Debtor

Plaintiff states that he proposed to dismiss Defendant/Debtor from this action but received no response. Adv. Dkt. 40, p. 3, para. "(E)". Meanwhile, Defendant/Debtor seeks to convert her case back to chapter 13 (*Id.* p.4, para. "(G)"), and states that is "willing to include any costs and legal fees incurred in this Adversary Proceeding by the Chapter 7 Trustee." *Id.* On 4/26/21 Debtor filed such a motion (2:19-bk-20396-NB, dkt. 66).

The tentative ruling is to continue this adversary proceeding status conference as set forth below, to see if the motion to reconvert is granted. But before adopting any such tentative ruling, this Court needs answers to the following issues.

First, does Debtor's statement that she is willing to "include" the Chapter 7 Trustee's costs and legal fees incurred "in this Adversary Proceeding" mean that she proposes to pay immediately and in full all of the Chapter 7 Trustee's allowed administrative expenses, including not just the fees and costs of this adversary proceeding but also, for example, the Trustee's own compensation under 11 U.S.C. 326?

Second, how will Debtor fund that proposed payment?
[Copied from 5/4/21 tentative ruling for *Yoo v. Kim, et al.*, 2:20-ap-01303-NB]

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

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CONT... Irene H Kim

Chapter 7

Debtor(s):

Irene H Kim

Represented By
Donald E Iwuchuku

Trustee(s):

Timothy Yoo (TR)

Represented By
Carmela Pagay

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2:19-20396 Irene H Kim

Chapter 7

Adv#: 2:20-01303 Yoo v. Kim et al

#6.00 Hrg re: Motion for Voluntary Dismissal of Sole
Remaining Defendant Pursuant to Fed. R. Civ. P. 41(a)(2)

Docket 42

Tentative Ruling:

Please see the tentative ruling for the adversary status conference (Calendar No. 7, 6/29/21 at 11:00 a.m.).

Party Information

Debtor(s):

Irene H Kim

Represented By
Donald E Iwuchuku

Defendant(s):

Hyong Chan Kim

Represented By
Donald E Iwuchuku

Sunhee Kim

Represented By
Donald E Iwuchuku

Irene H Kim

Represented By
Donald E Iwuchuku

Plaintiff(s):

Timothy J Yoo

Represented By
Carmela Pagay

Trustee(s):

Timothy Yoo (TR)

Represented By
Carmela Pagay

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11:00 AM

2:19-20396 Irene H Kim

Chapter 7

Adv#: 2:20-01303 Yoo v. Kim et al

#7.00 Cont'd Status Conference re: Complaint for: (1) Avoidance of Voidable Transfers; (2) Recovery of Avoided Transfers; and (3) Turnover of Property [11 U.S.C. Section 542, 54, 548 and 550] fr. 11/3/20, 12/1/20, 5/4/21

Docket 1

Tentative Ruling:

Tentative Ruling for 6/29/21:

Appearances required.

(A) Current issues

(1) Plaintiff/Trustee's motion to dismiss Defendant/Debtor and close this adversary proceeding (adv. dkt. 42), no opposition on file

The tentative ruling is to grant the motion.

Proposed order: Plaintiff/Trustee is directed to lodge (i) a proposed order granting the motion and (ii) a proposed order closing this adversary proceeding via LOU within 7 days of the hearing. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

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CONT... Irene H Kim

Chapter 7

Tentative Ruling for 5/4/21:
Appearances required.

(A) Current issues

This Court has reviewed the parties' joint status report (adv. dkt. 40) and the other filed documents and records in this adversary proceeding. This Court has also reviewed Debtor's motion for conversion back to chapter 13 (dkt. 66).

(1) Conversion to chapter 13 and/or dismissal of Defendant/Debtor

Plaintiff states that he proposed to dismiss Defendant/Debtor from this action but received no response. Adv. Dkt. 40, p. 3, para. "(E)". Meanwhile, Defendant/Debtor seeks to convert her case back to chapter 13 (*id.* p.4, para. "(G)"), and states that is "willing to include any costs and legal fees incurred in this Adversary Proceeding by the Chapter 7 Trustee." *id.* On 4/26/21 Debtor filed such a motion (2:19-bk-20396-NB, dkt. 66).

The tentative ruling is to continue this adversary proceeding status conference as set forth below, to see if the motion to reconvert is granted. But before adopting any such tentative ruling, this Court needs answers to the following issues.

First, does Debtor's statement that she is willing to "include" the Chapter 7 Trustee's costs and legal fees incurred "in this Adversary Proceeding" mean that she proposes to pay immediately and in full all of the Chapter 7 Trustee's allowed administrative expenses, including not just the fees and costs of this adversary proceeding but also, for example, the Trustee's own compensation under 11 U.S.C. 326?

Second, how will Debtor fund that proposed payment?

(2) The deadline to complete discovery has passed

Defendant/Debtor states that she anticipates propounding discovery on Plaintiff/Trustee and completing discovery by 6/1/21. Adv. Dkt. 40, p.2. But this Court's prior scheduling order (adv. dkt. 23, para. "(3)(f)") set 3/5/21 as the "last day for discovery to be completed, including receiving responses to discovery requests," (other than expert discovery) and Defendant/Debtor has not filed any motion for reconsideration of that deadline. The tentative ruling is that the Status Report cannot be treated as such a motion.

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CONT... Irene H Kim

Chapter 7

(B) Standard requirements

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority

The parties have stated their positions (see adv. dkt. 13, p.4, para. F) and, to the extent necessary, this Court has not yet ruled on these issues.

(2) Mediation: The tentative ruling is not to order any mediation at this time.

(3) Deadlines

This adversary proceeding has been pending since 8/27/20.
[The deadlines have been memorialized in this Court's scheduling order (adv. dkt. 23), except for the following, which need no written order.]

Joint Status Report: 5/18/21

Continued status conference: 6/1/21 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers, including direct testimony by declaration unless excused: TBD

Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

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CONT... Irene H Kim

Chapter 7

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Irene H Kim

Represented By
Donald E Iwuchuku

Defendant(s):

Hyong Chan Kim

Pro Se

Sunhee Kim

Pro Se

Irene H Kim

Represented By
Donald E Iwuchuku

Plaintiff(s):

Timothy J Yoo

Represented By
Carmela Pagay

Trustee(s):

Timothy Yoo (TR)

Represented By
Carmela Pagay

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Los Angeles
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Hearing Room 1545

11:00 AM

2:18-24302 GL Master Inc

Chapter 7

Adv#: 2:20-01678 Wolkowitz v. Hot Pot Austin LLC

#8.00 Cont'd Status Conference re: Complaint for Avoidance and Recovery of Preferential Transfers [11 U.S.C. Sections 547(b), 550(a), and 551] fr. 2/9/21, 5/4/21

Docket 1

Tentative Ruling:

Tentative Ruling for 6/29/21:

Continue to 7/20/21 at 11:00 a.m., concurrent with the hearing on Plaintiff/Trustee's motion for default judgment (adv. dkt. 9). Appearances are not required on 6/29/21.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

GL Master Inc

Represented By
Thomas J Polis

Defendant(s):

Hot Pot Austin LLC

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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CONT... GL Master Inc

Chapter 7

Plaintiff(s):

Edward M. Wolkowitz

Represented By
Juliet Y Oh
Richard P Steelman Jr

Trustee(s):

Edward M Wolkowitz (TR)

Represented By
Juliet Y Oh

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Hearing Room 1545

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2:15-23688 Boaz Tribelsky

Chapter 13

#9.00 Cont'd status conference re: Debtor's Second Renewed Motion for Order To Show Cause as to Why Specialized Loan Servicing LLC Should Not be Held in Contempt for Violation of Debtor's Discharge Injunction fr. 4/6/21, 6/15/21

Docket 140

Tentative Ruling:

Tentative Ruling for 6/29/21:

Appearances required.

This Court's 6/15/21 tentative ruling (copied below) waived appearances; but based on the representations of Specialized Loan Servicing LLC, relayed by Debtor's Counsel at that hearing, this Court instead continued the hearing to this date. There is no tentative ruling but the parties should be prepared to update this Court on whether they have resolved their disputes or if, instead, this Court should revise the briefing schedule set forth in the 6/15/21 tentative ruling.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 6/15/21:

Continue for further briefing as set forth below. Appearances are not required

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CONT... **Boaz Tribelsky**
on 6/15/21.

Chapter 13

This Court is puzzled by the parties' failure to arrive at an agreed statement that can be submitted to any prospective lender setting forth the facts. Such basic facts as the date and dollar amount of each payment, and whether any payments received in 2020 were late, should be independently verifiable and not subject to any reasonable dispute. But it appears that the parties have been unable to agree on any such statement, so the tentative ruling is to set a schedule for briefs and evidence and a continued hearing on whether to issue a finding and conclusion of contempt of court and impose sanctions.

(1) Background

There appear to be two disputes. One, involving escrow payments and one purportedly late interest payment, appears to be irrelevant, but might be causing confusion. The second, involving timely payments that have been reported as late payments, appears to be the real focus of the parties' disputes.

(a) Escrow payments and one purportedly late interest payment

A long-running dispute apparently involved Debtor's failure to pay monthly amounts into escrow accounts - Debtor instead appears to have paid insurance and real estate taxes directly. The parties' papers never explained this in sufficient detail, but this Court arrived at that conclusion based on its own detailed analysis. See Tentative Rulings for 3/20/18 and 5/8/18 hearings (reproduced below).

In any event, the dispute was settled by a 2018 stipulation providing that the loan would be "de-escrowed for taxes and insurance, commencing with the February 1, 2017 monthly installment" and that Debtor would receive a small refund (\$1,965.66) and a waiver of some late charges (\$1,849.30). See Stipulation between Debtor and Wells Fargo Bank, N.A., as servicer for U.S. Bank National Association, as Trustee Prime Mortgage Trust, Mortgage Pass-Through Certificates, Series 2006-2 ("US Bank"), attached as Ex.P to Motion for OSC (dkt. 140) (at PDF pp. 133-37) and Order thereon (Ex.Q, at PDF pp.138-39). Specialized's own Response (Ex.C) to the Chapter 13 Trustee's notice that Debtor had cured all defaults (Ex.B) appears to show that Debtor is current. See Ex.B&C to Motion for OSC (dkt.140, at PDF

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CONT... **Boaz Tribelsky**

Chapter 13

pp.29-33).

Now Debtor reports that that he has been wrongfully accused by US Bank's current servicer, Specialized Loan Servicing LLC ("Specialized") of being "in arrears for \$2828.69 due to an escrow shortage. See Exhibit K to Debtor's declaration." Motion for OSC (dkt. 140), p.3:10-13. But Exhibit K (dkt.140, at PDF pp.109-110) says nothing about any escrow shortfall - to the contrary, it states:

The amount of the debt as of 12/08/2020 is \$404,193.45. For informational purposes, this amount is comprised of the following: unpaid principal of \$401,364.76, deferred balance total of \$0.00, uncollected interest of \$2,828.69, **escrow balance/advances of \$0.00**, and outstanding fees of \$0.00." [Dkt.140, Ex.K, at PDF p.109, emphasis added.]

As for the above-referenced "uncollected interest of \$2,828.69," Specialized explained on 2/1/21 that the funds were received and applied to the account on 12/9/20. See Ex.H to Motion for OSC (dkt.140) at PDF p.44. Debtor has not pointed to evidence that this is incorrect, so perhaps this is no longer an issue.

(b) Debtor's apparently timely payments that have been wrongly reported as late payments

Debtor appears to be on firmer ground when he alleges that he applied for a home refinance in 2021 but that his attempted refinance was denied for the sole reason that Specialized reported that he was "**9 times delinquent in 2020**," citing Exhibit E to his Motion for OSC (dkt. 140), p.3:16-22 (emphasis added). That is supported by three types of evidence.

First, Exhibit E (dkt.140 at PDF p.36) is a Verification of Mortgage from Specialized to Debtor dated "01/06/21" asserting that "last year" (2020) Debtor was delinquent 9 times, from 15 days to over 90 days. Second, Debtor's Exhibit F is a letter from Right Choice Mortgage stating that it "is unable to refinance Mr Tribelsky for the sole reason that upon receiving the Verification of Mortgage from [Specialized] it came back with the following information [tracking 8 of the 9 purported delinquent payments] (see attached statement)." Ex.F to Motion for OSC (dkt.140, at PDF p.41). Third, attached as Exhibit I is Debtor's correspondence with Specialized, dated 1/22/21, enclosing evidence appearing to show that Debtor made all of his 2020 mortgage payments timely. Ex.I to Motion for OSC (dkt.140) at PDF

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CONT... Boaz Tribelsky

Chapter 13

pp.52-79.

Debtor also has provided evidence that Specialized has not addressed these allegations. For example, Specialized's letter dated 2/1/21 states, "We have researched your account and our records indicate that the interest described in your dispute [the one purportedly late interest payment that apparently was cured with the payment received on 12/9/20] was not in error." Ex.H to Motion for OSC (dkt.140, at PDF p.44). Specialized's letter does not address the (apparently erroneous) report of 9 delinquencies in 2020. See *also* Ex.J (2/9/21 letter from Specialized to Debtor) (dkt.140, at PDF p.80).

In sum, Debtor has presented *prima facie* evidence that Specialized was reporting delinquencies that did not actually exist. On that basis this Court granted Debtor's motion for issuance of an OSC.

(2) Current status

On 4/7/21 this Court issued its "Order to Show Cause as to Why Specialized Loan Servicing LLC Should Not be Held in Contempt For Violation of Debtor's Discharge Injunction" (dkt. 146, the "OSC") which set a 6/14/21 deadline for the parties to complete discovery. Debtor's status report (dkt. 148) states that the parties have not been able to settle their disputes and that Debtor has propounded, and Specialized has responded to, Debtor's interrogatories, requests for admission, and requests for documents.

The tentative ruling is to set a **deadline of 6/25/21** for Specialized to file and serve its response to the OSC, including declarations and evidence (if any) to rebut Debtor's *prima facie* showing that Specialized has violated the discharge injunction of 11 U.S.C. 524, is in contempt of court, and is subject to sanctions. The tentative ruling is to set a **deadline of 7/9/21** for Debtor's reply, and a non-evidentiary hearing on **7/20/21 at 11:00 a.m.**, at which time this Court will determine if there are any matters that require an evidentiary hearing or other procedures.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's

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CONT... Boaz Tribelsky

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COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 4/6/21:
Appearances required.

There is no tentative ruling. The parties should be prepared to address the issues raised in Debtor's motion (dkt. 140) and this Court's order setting this hearing (dkt. 142), including (a) whether they have met and conferred about a possible resolution of their dispute(s) and (b) whether this Court should (i) set a briefing schedule and an evidentiary hearing re contempt/sanctions, (ii) order the parties to mandatory mediation and/or (iii) order some other appropriate disposition.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

**COPY OF TENTATIVE RULINGS ON RELATED MOTION
(dkt. 58) FOR RELIEF FROM AUTOMATIC STAY
Tentative Ruling for 5/8/18:**
Appearances required.

At the hearing on 3/20/18, this Court continued the matter to this date and directed (1) debtor to commence making higher payments to Movant in the

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CONT... **Boaz Tribelsky**

Chapter 13

amount of \$4,079.99 (\$3,698.51 P&I + \$381.48 escrow); and (2) set deadlines for (a) Movant to file a supplemental declaration regarding recalculation of the appropriate monthly escrow fund payment, and (b) debtor to file a response.

This Court has reviewed Movant's supplemental declaration (dkt. 68) and debtor's response (dkt. 72). The parties should be prepared to address whether they have reached any resolution regarding debtor's contention that Movant has not taken into account any credits received from hazard insurance and county taxes.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/20/18:

Grant in part, deny in part, and continue to 4/10/17 at 10:00 a.m., all as set forth below. Appearances required.

(1) Background

The parties appear to agree that the debtor has made monthly payments of \$3,698.51 (the normal amortizing principal and interest payments). Those payments were due on the first day of each month, and generally were paid a few days later. See dkt. 8, Ex.5 (movant's spreadsheet) and dkt. 61, Ex.A, & dkt. 62) (debtor's copies of cashier checks). The motion lists some late charges, attorney fees, and other items (dkt. 58, p.7, para.8), but those do not appear to have been included in the movant's spreadsheet (dkt. 58, Ex.5, at PDF pp.30-33), perhaps because the listed amounts are for prepetition periods. In any event, the core of the parties' disagreement appears to involve an escrow impound account to pay real estate taxes and property insurance premiums.

(2) The debtor's assertions of "improper" escrow impounds are unpersuasive

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Chapter 13

The debtor's declaration (dkt. 61, Tribelsky Decl., para.9, at PDF p.7:24-28) asserts that the impound is "improper" and that the debtor has "struggled with [movant] Wells Fargo to have them end these impounds." The debtor also declares (dkt. 61, at PDF p.7:16-22) that there was an "improper increase" in monthly payments starting on March 1, 2016, which he believes was due to an escrow impound for taxes and insurance.

The debtor fails to explain why there is anything "improper" about requiring him to pay into an escrow for real estate taxes and insurance. The loan documents (dkt. 8, Ex.1, para.3, pp.4-5) require the debtor to make escrow payments for taxes and insurance premiums on the same date at the payments of principal and interest.

It is true that the movant apparently had not required escrow payments for some unspecified period prior to March 1, 2016. See Notice of Mortgage Payment Change (Official Form 410S1) (the "Change Notice"), filed 1/19/16 on the Claims Register, at PDF pp.5-6 (requiring monthly payments of \$351.96 commencing March 1, 2016). But if the debtor is asserting some sort of waiver that argument is unpersuasive. The Deed of Trust provides (dkt. 58, Ex.1, para.3, pp.4-5) that although the movant may waive the escrow requirement, the movant "may revoke the waiver as to any or all Escrow Items at any time" and then the debtor "shall pay" all escrow amounts.

The debtor apparently just ignored his obligation to pay escrow impound amounts. Instead he has presented evidence (dkt. 61, Ex.B, at PDF pp.38 et seq.) that he paid taxes directly to the tax authorities and insurance premiums directly to the insurers.

It appears that the movant must have credited the debtor's direct payments of taxes and insurance, because its Change Notice filed on 10/18/16 lists a low estimated "Starting balance" of \$861.27 as of December 2016 (although that apparently assumes that the debtor would start making his required escrow payments). In any event, the movant's Change Notice is *prima facie* evidence of the validity of this underlying calculation in support of its claim, and the debtor has not established that there is anything wrong with the movant's accounting included in its Change Notice filed on 10/18/16.

Similarly, by the time of the next Change Notice it appears that the movant must have once again credited the debtor's direct payments of taxes and insurance because, the escrow account projections ("Part 3") project a required "Starting balance" for March 2018 of only \$762.96 (although, again, this appears to assume that the debtor will have made certain payments into

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CONT... Boaz Tribelsky

Chapter 13

the escrow account by the start of March 2018). In any event, the debtor has not shown that there is anything wrong with this supporting underlying documentation of the movant's claim.

(3) Despite the deficiencies in the debtor's arguments and evidence, it appears that the motion itself fails to account for the debtor's direct payments of real estate taxes and insurance

The motion asserts (dkt. 58, p.9, para.12.c.) that the debtor was behind three payments of \$4,053.45, for a total of \$12,160.35, less a suspense account balance of \$1,166.12, for a total of \$10,994.23 as of approximately 12/12/18 (when the declaration in support of the motion was signed). But unlike the Change Notices the motion does not appear to give the debtor credit for direct payments of real estate taxes and insurance.

Based on the spreadsheet attached to the motion as Exhibit 5 (dkt. 58, at PDF pp.30-33), the alleged shortfall of \$10,994.23 appears to be the cumulative sum of all the shortfalls between the \$3,698.51 that the debtor was paying each month (the normal amortizing principal and interest payments) and the higher monthly amounts that he should have been paying in order to fund the escrow account. There are no entries in the spreadsheet that appear to reflect the debtor's direct payments of taxes and insurance.

Nor is it possible to rely on the latest Change Notice to determine precisely what the debtor owes. At first glance that Change Notice would appear to have current information because it was filed on 3/5/18, but it provides only a projected shortfall of \$762.96 in the escrow account as of March 2018 (3/5/18 Charge Notice at PDF p.6, Part 3, end of first line). That projection probably is too low, because it appears to assume that part of the debtor's monthly payment is credited to the escrow account in January of 2018, and that the debtor will make some very substantial payments in February and March of 2018, and that the real estate taxes that are due in March of 2018 will be paid out of those escrow payments (*see id.*, Part 4, 2d and 5th columns, rows for January, February, and March, including credits of \$1,281.90, \$9,810.75, and \$354.94, and debit of \$1,612.38).

The bottom line is that although the movant has not established precisely what the debtor owes, it has established cause for some sort of relief from the automatic stay - namely, there is "cause" within the meaning of 11 U.S.C. 362(d)(1) in that the debtor has failed for many months to comply with his obligations to fund the escrow account, which exposes the movant to

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CONT... Boaz Tribelsky

Chapter 13

the risk that it will have to bear the cost if the debtor fails to pay real estate taxes or insurance (especially if the property were to be damaged or completely burn down). The required adequate protection is for the debtor to cure the deficiency in the escrow account over a reasonable period of time.

The latest Change Notice (filed 3/5/18) can be used as a starting point. It requires that the debtor pay \$381.48 per month into the escrow account, in addition to his regular monthly payments of \$3,698.51 on account of principal and interest, for total monthly payments of \$4,079.99. The escrow payments may have to be adjusted (as noted above, the Change Notice appears to assume that the debtor will have made some very substantial payments by the start of March 2018), but this Court can set a schedule for such adjustment (see below).

(4) Conclusion

The tentative ruling is to set a deadline of 4/1/18 for the debtor (a) to file evidence that he has paid the March 2018 real estate tax payment directly to the taxing authority and (b) to commence making monthly payments of \$381.48 into the escrow account, in addition to his regular monthly payments of \$3,698.51 on account of principal and interest, for total monthly payments of \$4,079.99.

In addition, the tentative ruling is to set a deadline of 4/1/18 for the movant to file a supplemental declaration showing a calculation of the required escrow balance as of 5/1/18, the required monthly payments for the debtor to cure the deficiency in that escrow balance, and the resulting new total monthly payment that the debtor will have to pay on 5/1/18 and each month thereafter.

Finally, the tentative ruling is to set a continued hearing at the date and time set forth at the start of this tentative ruling, so that the parties and this Court can address what to do if the debtor disputes the movant's calculations.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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CONT... Boaz Tribelsky

Chapter 13

Debtor(s):

Boaz Tribelsky

Represented By
Michael F Chekian

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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Hearing Room 1545

1:00 PM

2:21-11720 Jose Angel Rosales

Chapter 11

#1.00 Hrg re: Motion for relief from stay [RP]

NDF1, LLC
vs
DEBTOR

Docket 73

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 2, 6/29/21 at 1:00 p.m.).

Party Information

Debtor(s):

Jose Angel Rosales

Represented By
Nancy Korompis

Movant(s):

NDF1, LLC

Represented By
Katherine S Walker

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2:21-11720 Jose Angel Rosales

Chapter 11

#2.00 Cont'd Status Conference re: Chapter 11 Case
fr. 03/23/21, 3/31/21, 4/27/21, 5/11/21, 6/15/21

Docket 1

Tentative Ruling:

Tentative Ruling for 6/29/21:

Appearances required.

(1) Current issues

(a) NDF1, LLC's motion for relief from stay (dkt. 73), Debtor's opposition (dkt. 78), no reply is on file

There is no tentative ruling, but the parties should be prepared to address whether they will agree to the terms of an adequate protection order (see Debtor's opposition, dkt. 78).

(b) Monthly Operating Reports ("MOR")

As of the preparation of this tentative ruling, Debtor has not filed his May MOR. Why not?

(2) Dates/procedures. This case was filed on 3/3/21.

(a) Bar date: 6/16/21 (dkt. 35; timely served, dkt. 44)

(b) Procedures order: dkt.14 (timely served, dkt. 21, amended by dkt. 22)

(c) Plan/Disclosure Statement: 7/6/21 or 9/3/21 (See dkt. 79). See the **revised** "Procedures of Judge Bason" (available at www.cacb.uscourts.gov) (search for "Chapter 11: Plan").

(d) Continued status conference: 7/20/21 at 1:00 p.m., concurrent with other matters. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at

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CONT... Jose Angel Rosales

Chapter 11

www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Jose Angel Rosales

Represented By
Nancy Korompis

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1:00 PM

2:20-19443 Joshuaville, LLC

Chapter 11

#3.00 Hrg re: Motion Objecting to Claim
Number 3 by Claimant March1 LLC
& MarchLife3 LLC.

Docket 77

Tentative Ruling:

Please see the tentative ruling for the Status Conference (Calendar No. 4,
6/29/21 at 1:00 p.m.).

Party Information

Debtor(s):

Joshuaville, LLC

Represented By
Leslie A Cohen

Movant(s):

Joshuaville, LLC

Represented By
Leslie A Cohen

Trustee(s):

Moriah Douglas Flahaut (TR)

Pro Se

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1:00 PM

2:20-19443 Joshuaville, LLC

Chapter 11

#4.00 Cont'd Status Conference re: Chapter 11 Case
fr. 11/10/20, 12/22/20, 1/26/21, 03/02/21, 03/23/21,
4/6/21, 4/27/21, 5/4/21, 6/15/21

Docket 1

Tentative Ruling:

Tentative Ruling for 6/29/21:
Appearances required.

(1) Current issues

(a) Amended proposed Plan (dkt.60), Order setting confirmation hearing (dkt.63), Ballot Summary (dkt.82)

At the 6/15/21 hearing, this Court continued the hearing on confirmation of Debtor's First Amended Plan pending the resolution of the objection to the claim of March 1 LLC and Marchlife3, LLC's ("March Entities"). As discussed below, the tentative ruling is to overrule the objection to the claim of the March Entities. Accordingly, the tentative ruling is that the plan cannot be confirmed because the size of the March Entities' claim and their vote against confirmation means that the holders of class 3 claims have not voted to accept the Plan by "at least two-thirds in amount." 11 U.S.C. 1126(c) (incorporated by 1129(a)(8)&(10) and 1191(a)). See Ballot Summary (dkt.82) (listing dollar amounts of claims). In addition, this Court is not persuaded that "cramdown" is appropriate under 11 U.S.C. 1129(a)(1)-(3) and 1191(b).

In making the foregoing tentative rulings this Court recognizes that the docket does not reflect any objection to confirmation. But this Court has an independent duty to assure that the elements of 11 U.S.C. 1129 are satisfied. See *United Student Aid Funds, Inc. v. Espinosa*, 559 U.S. 260, at n.15 & accompanying text (2010).

(b) Motion of March 1 LLC and Marchlife3, LLC's (the "March Entities") to compel Debtor to assume or reject contract, or alternatively for dismissal of case (the "Assumption Motion," dkt. 66); Debtor's Opposition (dkt. 69); March Entities' Reply (dkt. 70), Debtor's Supp. Opp. (dkt. 76); March Entities' Supp.

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CONT... **Joshuaville, LLC**

Chapter 11

Reply (dkt. 81); interim Order (dkt. 95)

The tentative ruling is to set new deadlines, for the reasons set forth in this Court's interim order partially granting the Assumption Motion.

(c) Debtor's Objection to Claim of March Entities (Claim No. 3) (dkt. 77); Opposition of March Entities (dkt. 86); Debtor's Reply (dkt. 91)

Debtor has raised several arguments in support of its objection to the claim of the March Entities. One of the objections is that the opposition was untimely, but Debtor has not established any prejudice from the lack of timeliness, so that objection is overruled.

A court reviewing an objection to claim must "determine the amount of such claim" unless the objecting party has established one of the limited grounds for disallowance. *In re Heath*, 331 B.R. 424, 435 (9th Cir. BAP 2005), see 11 U.S.C. 502(b). Debtor cites none of the limited grounds for disallowance in its objection. Accordingly, the tentative ruling is that Debtor's arguments are not persuasive and that the objection to the claim of the March Entities is overruled, without prejudice, for the reasons set forth below.

(i) Repayment of Amounts Advanced on Debtor's Behalf for Phase 1 Improvements

Debtor argues that the March Entities opted to advance the funds for Phase 1 Improvements on behalf of Debtor as a loan and that the March Entities' election to advance the amount as a loan payable from the net proceeds due to the Debtor from the sale of property pursuant to Section 5(d)(i)(b) of the Participation. This Court was not persuaded when Debtor raised this same argument in opposition to the March Entities' Motion to Compel Debtor to Assume or Reject the Contract. The tentative ruling is that this Court's position is unchanged. The language of the section Debtor cites unambiguously states that the amount is payable from net proceeds from the sale of parcels "or otherwise **upon demand**." Participation Agreement (dkt. 77), para. 5.(d)i.(b) at PDF p. 22 (emphasis added).

(ii) The March Entities' Claim for \$2,500,000 for Phase 2 Improvements

Debtor asserts that the \$2,500,000 for Phase 2 Improvements are not properly included in the March Entities' proof of claim because (1) the work on Phase 2 Improvements will not commence until July 2021 and thus represent a post-petition claim and (2) there is no evidence to support the \$2,500,000

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demand. First, Debtor's characterization of the \$2,500,000 as a post-petition claim is inaccurate. The Participation Agreement executed in 2017 states that Phase 2 Improvements were scheduled to take place in years 4–6, that the budget for those improvements was \$5,000,000, and that Debtor would be responsible for 50% of all "Horizontal Improvements." Participation Agreement (dkt. 77) at PDF pp. 22, 41. Thus, this portion of the claim is best characterized as a contingent claim because Debtor was aware that this obligation could and likely would arise during the bankruptcy. See, e.g., *In re SNTL*, 571 F.3d 826 (9th Cir. 2009).

Second, as previously noted in this Court's 6/15/21 tentative ruling on the March Entities' Motion to Compel Debtor to Assume or Reject the Contract, contractual provisions within the Participation Agreement entitle the March Entities to make a demand for such funds. See Participation Agreement (dkt. 77) at PDF pp. 22, 41.

(iii) Debtor's assertions that the March Entities' Claim was Made in Bad Faith

In its Objection and Reply, Debtor alleges that the March Entities filed their proof of claim in bad faith because they have (1) submitted inconsistent demands which also violate the Participation Agreement, (2) falsely stated that Debtor has paid nothing towards horizontal improvements, (3) complained of the scheduled debt to Yihao Chen and the fact that Mr. Chen has not filed a proof of claim, and (4) accuse Debtor of not providing a copy of the Chen promissory despite a promise to do so. Debtor has not cited, and this Court is not aware of, any authority construing bad faith as one of the limited grounds for disallowance under 11 U.S.C. 502(b). As to Debtor's first allegation, the preparation of an inconsistent demand is insufficient to establish the March Entities have acted in bad faith. Debtor's other allegations of bad faith include alleged misrepresentations maligning Debtor. Though these allegations are troubling, these statements are not material to the merits of the claim because they do not pertain to whether the March Entities in fact hold a claim against Debtor and/or the value of such claim.

Proposed orders: Debtor is directed to lodge proposed orders on each of the foregoing motions via LOU within 7 days after the hearing date and attach a copy of relevant portions of this tentative ruling to each, thereby adopting it as this Court's final ruling, subject

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to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed, as a Subchapter V case, on 10/19/20.

- (a) Bar date: 12/28/20 per General Order 20-01 (70 days after petition date in Subchapter V cases) (DO NOT SERVE any notice: one has already been sent, see dkt.9).
- (b) Procedures order: dkt.4 (timely served, dkt.6).
- (c) Amended Plan (dkt. 60): See above.
- (d) Continued status conference: 7/27/21 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 6/15/21:

Appearances required.

(1) Current issues

(a) Amended proposed Plan (dkt.60), Order setting confirmation hearing (dkt.63), Ballot Summary (dkt.82)

The tentative ruling is that the Plan cannot be confirmed. Although Debtor's ballot summary (dkt.82, p.3:6-13) asserts that the March Entities' ballot should not be counted because its claims are subject to a claim objection, that disregards this Court's order (dkt.63, para.1), which provides

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that claims were fixed as of 5/4/21 for voting purposes (with inapplicable exceptions). Debtor's claim objection (dkt.77) was not filed until after that deadline (on 5/28/21). Due to the size of the March Entities' claim, the holders of class 3 claims have not voted to accept the Plan by "at least two-thirds in amount." 11 U.S.C. 1126(c) (incorporated by 1129(a)(8)&(10) and 1191(a)). See Ballot Summary (dkt.82) (listing dollar amounts of claims).

In addition, this Court is not persuaded that "cramdown" is appropriate under 11 U.S.C. 1129(a)(1)-(3) and 1191(b). As set forth in the next section of this tentative ruling, although a plan may provide for assumption "subject to section 365" (11 U.S.C. 1123(b)(2)), the tentative ruling is that Debtor has not established compliance with section 365 in its attempt to assume its agreement with the March Entities. To the contrary, Debtor's proposed Plan appears to be a bad faith attempt to evade and indefinitely defer its obligations under that agreement.

In making the foregoing tentative rulings this Court recognizes that the docket does not reflect any objection to confirmation. But this Court has an independent duty to assure that the elements of 11 U.S.C. 1129 are satisfied. See *United Student Aid Funds, Inc. v. Espinosa*, 559 U.S. 260, at n.15 & accompanying text (2010).

(b) Motion of March 1 LLC and Marchlife3, LLC's (the "March Entities") to compel Debtor to assume or reject contract, or alternatively for dismissal of case (the "Deadline Motion," dkt. 66); Debtor's Opposition (dkt. 69); March Entities' Reply (dkt. 70), Debtor's Supp. Opp. (dkt. 76); March Entities' Supp. Reply (dkt. 81)

Grant the Deadline Motion as provided below, for the reasons stated in the Tentative Ruling for 5/4/21 (reproduced below) and the following additional reasons. The tentative ruling is to set a deadline of 24 hours prior to the continued hearing for Debtor (i) to pay the cure payments set forth below, (ii) to pay the compensation payments set forth below, and (iii) to provide evidence of additional investors or funds as adequate assurance of future performance, as set forth below. The tentative ruling is to set the continued hearing contemporaneous with the continued Status Conference (see part "(2)(d)" of this Tentative Ruling, below).

This Court recognizes that the foregoing might present an impossible burden for Debtor. But the tentative ruling is that the March entities are entitled to a tight deadline because of their own exigent circumstances.

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(i) Background

At the hearing on 5/4/21 this Court was persuaded to continue this matter to this date. This Court orally set a deadline of 5/11/21 for the March entities to provide their supplement, a deadline of 5/25/21 for Debtor to respond with whatever briefing and evidence it may have, and a deadline of 6/4/21 for the March entities' reply. See Supp. Opp. (dkt. 76), p.6:4-10.

(ii) Statute

Debtor "may not assume" the subject contract without (i) curing, or providing "adequate assurance that [Debtor] will promptly cure" defaults, (ii) compensating, or providing "adequate assurance that [Debtor] will promptly compensate" the March entities for any "actual pecuniary loss" resulting from defaults, and (iii) providing "adequate assurance of future performance" by Debtor under the subject contract. 11 U.S.C. 365(b)(1). Debtor may assume or reject the contract "at any time before the confirmation of a plan but the court, on the request of any party to [the] contract ..., may order [Debtor] to determine within a specified period of time whether to assume or reject such contract" 11 U.S.C. 365(d)(2). As set forth in Debtor's papers, Debtor is entitled to a "reasonable" time to decide whether to assume or reject the contract, and what amount of time is "reasonable" is left to this Court's discretion in light of the circumstances of this case. See Supp. Opp. (dkt. 76) p.7:16-25 (citing authorities).

(iii) Urgency of Deadline to Compel Assumption or Rejection of the Participation Agreement

Debtor asserts that there is no urgency, and no need to set a deadline to compel assumption or rejection of the Participation Agreement, because the March Entities have not provided evidence that "Debtor's contribution is necessary to meet the [September 2021] due date," "that the due date is being enforced despite COVID-19 and the Force Majeure clauses under the DDA," or "that funds are even due from the Debtor." Supp. Opp. (dkt. 76) p. 7:11–13. The tentative ruling is that the March Entities have more than adequately addressed each of these issues. See, e.g., Niemann Decl. (dkt.74) at p.3, para.10 ("the funds to comply with the infrastructure construction obligation ... are needed immediately" and "there is no funding available for improvements required by Sept. 2021"); Supp. Reply (dkt. 81)

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pp. 4:9–12, 5:3–9; Second Amendment to the Disposition and Development Agreement (dkt. 74) Ex.A, section 2.01 (replacing section 6.03) and Ex.D (9/12/21 deadline for certain horizontal improvements).

The hypothetical possibility that the March Entities could escape termination of their contract based on COVID-19 and any Force Majeure clause is insufficient. Accordingly, the tentative ruling is that the March Entities have established the urgent need for Debtor to assume or reject the Participation Agreement so that they may continue their work under the Disposition and Development Agreement and retain that agreement.

(iv) Minimum cure and compensation payments

Debtor also makes several arguments against the cure and compensation demands of the March Entities. The tentative ruling is that Debtor's arguments have been fully rebutted by the March Entities, except as noted below. See Niemann Decl. (dkt.81), pp.2-7, *passim*.

On the specific issue of attorney fees, the tentative ruling is that the March Entities have the better argument for the following reasons. Under § 365(b)(1)(B), the party assuming a contract is required to compensate or provide adequate assurance to a party other than the debtor for any pecuniary loss resulting from a default on the contract in question. Although the Bankruptcy Appellate Panel has held that § 365(b)(1)(B) does not confer an independent right to attorney's fees as pecuniary losses, *In re Westside Print Works, Inc.*, 180 B.R. 557, 564 (9th Cir. BAP 1995), it has upheld the inclusion of attorney's fees for pecuniary losses where the contract at issue explicitly provided for the award of attorney's fees. *In re Bullock*, 17 B.R. 438, 439 (9th Cir. BAP 1982) ("The purpose of [§] 365(b)(1)(B) is to indemnify the other party to the contract or lease being assumed, against loss. The purpose of an attorney's fee clause in a lease as well as an attorney's fee clause in a security agreement is the same, to indemnify the lessor or secured party against legal expenses incurred by reason of the other party's default.").

Debtor objects to the March Entities' inclusion of \$2,500,000 for Phase 2 improvements. Supp. Opp. (dkt. 76) p. 10:1–7. The tentative ruling is that this amount is properly included within the cure obligation, based on the March Entities' citation to contractual provisions entitling them to make a demand for such funds. See Supp. Reply (dkt. 81) p. 3:13–19; May 11, 2021 Phase 2 Invoice (dkt. 81) Ex. D; March Entities' Reply to Debtor's Request for

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Additional Information (dkt. 81) Ex. C, at Bates p. 31; Participation Agreement (dkt. 66), Ex.A at PDF p. 29.

(2) Deadlines/dates. This case was filed, as a Subchapter V case, on 10/19/20.

(a) Bar date: 12/28/20 per General Order 20-01 (70 days after petition date in Subchapter V cases) (DO NOT SERVE any notice: one has already been sent, see dkt.9).

(b) Procedures order: dkt.4 (timely served, dkt.6).

(c) Amended Plan (dkt. 60): See above.

(d) Continued status conference: 6/29/21 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 5/4/21:

Appearances required.

(1) Current issues

(a) Motion of March 1 LLC and Marchlife3, LLC's (the "March Entities") to compel Debtor to assume or reject contract, or alternatively for dismissal of case (the "Deadline Motion," dkt. 66); Debtor's Opposition (dkt. 69); March Entities' Reply (dkt. 70)

Although Debtor is correct that the March Entities' legal analysis is thin,

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the tentative ruling is that the March Entities have presented sufficient arguments and evidence that, unless Debtor assumes or rejects the Participation Agreement very soon, the March Entities will not be able to meet their own deadline of 9/19/21 (the "Third Party Deadline") to make certain mandatory improvements, under their Disposition & Development Agreement with a governmental or quasi-governmental "Authority" for development of part of the former March Air Force Base (the "Development Agreement"). See Neimann Decl. (dkt. 66), p. 7:8–12, and Ex.A pp.12 and 13 (Participation Agreement) recitals and section 1 (at PDF p. 15) and pp.26 & 29 (schedule of payments, and "Horizontal Improvements" budget, Ex.B&E to Participation Agreement) (at PDF pp. 28 & 31). The March Entities have provided evidence that they need an estimated \$800,000 of funding from Debtor or, in the alternative, from another source, far enough in advance of that Third Party Deadline to make the improvements, or else they risk losing the entire project. Dkt. 66, pp. 7:24–8:3.

Debtor provides no contrary evidence. True, Debtor's proposed Plan (the "Plan," dkt. 61) provides for assumption of the participation agreement and an eventual cure. But the proposed time for any cure payment appears to be the later of (i) the Effective Date (defined to be 6 months after confirmation), if Debtor has sold the interests by then, or alternatively (ii) any later date when Debtor has the funds to make cure payments, subject to the apparent condition that Debtor will only make such payments if it "sells its interests under the Participation Agreement within 3 years after the Effective Date." See Plan, dkt. 61, sections "A," "C," 2.03, 4.01, 6.01, and 8.01. The tentative ruling is that this is insufficient for multiple reasons.

First, the March Entities point to evidence (Debtor's own Monthly Operating Reports and other bankruptcy papers) that Debtor has very few funds or ability to generate income, and therefore Debtor lacks any obvious ability to make the cure payments, except for a speculative prospect of finding investors. Again, Debtor provides no contrary evidence. The tentative ruling is that Debtor has not provided "adequate assurance" that it will be able to cure the default, as required by 11 U.S.C. 365(b)(1)(A) and 1123(b)(2).

Second, the tentative ruling is that, once the Third Party Deadline has expired, Debtor cannot "unring the bell" and belatedly cure its own failure to fund the required improvements before that deadline. See *generally In re Claremont Acquisition Corp.*, 113 F.3d 1029, 1033-35 (9th Cir. 1997) (debtor's failure to operate business for two weeks was historical fact that

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could not be cured). This means that, based on the evidence provided by the March Entities, Debtor must provide very strong assurances very soon that it will be able to provide the funds in sufficient time for the required improvements to be constructed prior to the Third Party Deadline, or else the March Entities will be left with too little time to make other arrangements to obtain such funding and construct the necessary improvements before the Third Party Deadline.

Third, even supposing that Debtor had presented evidence of some leeway in the Third Party Deadline under the Development Agreement (which Debtor has not presented), the tentative ruling is that Debtor's proposed time line is not sufficient to "promptly" cure within the meaning of 11 U.S.C. 365(b)(1)(A) (emphasis added). Again, the March Entities have provided evidence of what "prompt[]" means in the circumstances of this case - *i.e.*, sufficient to assure that the March Entities will not lose their own rights under the Development Agreement - and Debtor has not provided any evidence to the contrary.

Fourth, Debtor's apparent loophole - that it will only pay the cure payment if it can sell its interests under the Participation Agreement within three years after the Effective Date - appears to undermine any ability to provide "adequate assurance" of a future cure. 11 U.S.C. 365(b)(1)(A) (emphasis added).

For each of the foregoing alternative reasons, the tentative ruling is to grant the Deadline Motion, and to set a **deadline of 6/1/21** for Debtor to (x) obtain a ruling from this Court authorizing it to assume its Participation Agreement with the March Entities and (y) actually fund the estimated \$800,000 of necessary improvements, or else (z) reject the Participation Agreement. The tentative ruling is that there is cause to shorten time on any motion to assume (or reject) the Participation Agreement, both because of the above 6/1/21 deadline and because Debtor would need to raise a lot of money quickly in order to meet that deadline. See Rules 6006, 9006(c) & (d), 9013, 9014, 9036.

The tentative ruling is to shorten the deadlines such that, if Debtor can **file and serve an assumption or rejection motion by 5/18/21**, that motion can be self-calendared concurrent with the continued status conference (see below), with an **opposition deadline of 5/24/21** and **any reply due 5/27/21**.

Nothing in the foregoing tentative rulings should be construed to eliminate any claims (if any) that survive the arbitration award (dkt. 66, Ex.B,

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at PDF pp.37 *et seq.*). For example, Debtor retains all claims or defenses that might arise from its assertion that the March Entities have prevented Debtor from performing, by failing to provide Debtor with allegedly essential information to be able to attract investors. See, e.g., Plan (dkt. 61), at PDF pp. 2-3. Likewise, the March Entities retain all claims or defenses that might arise from their assertions (and any preclusive findings or rulings in the arbitration award) that Debtor made material false statements in the inception of the participation agreement or thereafter. All rights are reserved as to any claims, counterclaims, and defenses that are not barred by principles of preclusion or other doctrines.

Proposed order: The March Entities are directed to lodge a proposed order on the Deadline Motion via LOU within 7 days after the hearing date and attach a copy of this tentative ruling, thereby adopting it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed, as a Subchapter V case, on 10/19/20.

- (a) Bar date: 12/28/20 per General Order 20-01 (70 days after petition date in Subchapter V cases) (DO NOT SERVE any notice: one has already been sent, see dkt.9).
- (b) Procedures order: dkt.4 (timely served, dkt.6).
- (c) Amended Plan (dkt. 61): Confirmation hearing 6/15/21 at 1:00 p.m. (dkt. 63)
- (d) Continued status conference: 6/1/21 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's

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[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Joshuaville, LLC

Represented By
Leslie A Cohen

Trustee(s):

Moriah Douglas Flahaut (TR)

Pro Se

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2:20-19443 Joshuaville, LLC

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#4.10 Cont'd hrg re: Motion To Compel The Debtor To Properly Assume Or Reject Contract Or Dismiss Case fr. 5/4/21, 6/15/21

Docket 66

Tentative Ruling:

Tentative Ruling for 6/29/21:

Please see the tentative ruling for the Status Conference (Calendar No. 4, 6/29/21 at 1:00 p.m.).

Tentative Ruling for 6/15/21:

Please see the tentative ruling for the Status Conference (Calendar No. 12, 6/15/21 at 1:00 p.m.).

Tentative Ruling for 5/4/21:

Please see the tentative ruling for the Status Conference (Calendar No. 4, 5/4/21 at 1:00 p.m.).

Party Information

Debtor(s):

Joshuaville, LLC

Represented By
Leslie A Cohen

Movant(s):

March 1 and 3

Represented By
Dennis E McGoldrick

Trustee(s):

Moriah Douglas Flahaut (TR)

Pro Se

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2:20-19443 Joshuaville, LLC

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#4.20 Cont'd Combined Hrg re: Final Approval of Disclosure and Plan Confirmation
fr. 6/15/21

Docket 60

Tentative Ruling:

Tentative Ruling for 6/29/21:

Please see the tentative ruling for the Status Conference (Calendar No. 4,
6/29/21 at 1:00 p.m.).

Tentative Ruling for 6/15/21:

Please see the tentative ruling for the Status Conference (Calendar No. 12,
6/15/21 at 1:00 p.m.).

Party Information

Debtor(s):

Joshuaville, LLC

Represented By
Leslie A Cohen

Trustee(s):

Moriah Douglas Flahaut (TR)

Pro Se

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2:19-20273 Alex Christopher Padilla

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#5.00 Hrg re: Motion by Reorganized Debtor for
Entry of Discharge and Entry of Final Decree

Docket 216

Tentative Ruling:

Please see the tentative ruling for the Post Confirmation Status Conference
(Calendar No. 6, 6/29/21 at 1:00 p.m.).

Party Information

Debtor(s):

Alex Christopher Padilla

Represented By

Matthew D. Resnik

Roksana D. Moradi-Brovia

Movant(s):

Alex Christopher Padilla

Represented By

Matthew D. Resnik

Matthew D. Resnik

Matthew D. Resnik

Matthew D. Resnik

Matthew D. Resnik

Roksana D. Moradi-Brovia

Roksana D. Moradi-Brovia

Roksana D. Moradi-Brovia

Roksana D. Moradi-Brovia

Roksana D. Moradi-Brovia

Trustee(s):

Gregory Kent Jones (TR)

Pro Se

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2:19-20273 Alex Christopher Padilla

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#6.00 Cont'd Status Conference re: Post Confirmation
fr. 9/17/19, 10/1/19, 10/29/19, 12/10/19, 12/17/19,
1/28/20, 02/18/20, 3/3/20, 4/7/20, 5/5/20, 5/19/20,
6/30/20, 7/28/20, 9/1/20, 11/3/20, 11/10/20, 12/22/20,
1/26/21, 3/23/21, 6/1/21

Docket 1

Tentative Ruling:

Tentative Ruling for 6/29/21:

Grant the motion for discharge/final decree, subject to an express reservation of jurisdiction to resolve certain potential disputes, as provided below.

Appearances are not required.

(1) Current issues

(a) Motion by Reorganized Debtor for Entry of Discharge and Entry of Final Decree (dkt. 216); no opposition is on file

The tentative ruling is to grant Debtor a discharge now, but either (a) defer entry of a final decree closing this case until Debtor's counsel lodges a proposed final decree at a future date and/or (b) enter a final decree now but include an express reservation of jurisdiction to address any disputes with creditors regarding plan payment issues. The tentative ruling is to adopt the latter approach, so that Debtor does not incur any expenses associated with keeping this bankruptcy case open (e.g., fee applications).

The reasons are that Debtor notes possible disputes with creditors that probably would be best handled in this Court, and closing this case before any such disputes are resolved conceivably could have the effect of depriving this Court of jurisdiction to resolve the disputes (this Court takes judicial notice that the jurisdictional effects of closing a case have not been fully resolved in the reported decisions in this circuit). A lack of jurisdiction in this Court could force the parties to litigate any issues in a different forum with less knowledge of the facts, less bankruptcy expertise, and procedural rules that do not have the same flexibility as the bankruptcy rules for speedy and reduced-cost litigation.

The two potential disputes noted by Debtor are (i) a possible

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accounting dispute with the IRS (dkt. 216, p.5:1-7) and (ii) a possible claim for postpetition attorney fees by a secured creditor ("US Bank/PHH") (dkt. 216, p.5:20-23). Debtor states that such disputes are expected to be resolved consensually, and no future contested matters or adversary proceedings "are anticipated." Dkt. 216, p.9:14-16. But, of course, consensual resolution might not be possible, and the tentative ruling is that it may be in the interests of both Debtor and creditors to provide for this Court to retain jurisdiction to address any non-consensual resolution.

This Court recognizes, as Debtor acknowledges (dkt. 216, p.6:25-27), that an individual in a chapter 11 case generally does not receive a discharge until "completion of all payments under the plan" (11 U.S.C. 1141(d)(5)(A), emphasis added), and arguably all payments have not been made, in view of the potential disputes noted above. But for two reasons the tentative ruling is that this is not a problem.

First, Debtor alleges that all payments have been completed - at least, for purposes of granting a discharge - and no party in interest has objected to the relief sought by the motion, so any objection has been waived or forfeited. Second, the statute provides an exception to the requirement that "all" payments be completed, if "the court orders otherwise for cause." *Id.* The tentative ruling is that under each of these alternative grounds it is appropriate to grant Debtor a discharge now, notwithstanding any potential disputes such as those noted by Debtor.

In sum, the tentative ruling is (x) to grant Debtor a discharge now, and (y) to issue a final decree closing this bankruptcy case, but (z) to include in the final decree an express reservation of jurisdiction, in addition to the automatic reservation of jurisdiction in the Local Bankruptcy Rules, to address any disputes with creditors regarding plan payment issues.

Proposed order: Debtor is directed to lodge a proposed order on the foregoing motion via LOU within 7 days after the hearing date and attach a copy of this tentative ruling, thereby adopting it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

(2) Status conference

This Court is not aware of any reason to hold a status conference at this time, and in view of the closing of this case no continued status

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CONT... Alex Christopher Padilla
conference is set.

Chapter 11

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Alex Christopher Padilla

Represented By

Matthew D. Resnik

Roksana D. Moradi-Brovia

Trustee(s):

Gregory Kent Jones (TR)

Pro Se

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1:00 PM

2:21-12517 Law Offices of Brian D. Witzer

Chapter 11

#7.00 Hrg re: Application to Employ Bendon & Serlin, A Limited Liability Partnership as Special Counsel Statement of Disinterestedness

Docket 98

Tentative Ruling:

Please see the tentative ruling for the Status Conference (Calendar No. 9, 6/29/21 at 1:00 p.m.).

Party Information

Debtor(s):

Law Offices of Brian D. Witzer

Represented By
Michael Jay Berger

Movant(s):

Law Offices of Brian D. Witzer

Represented By
Michael Jay Berger

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1:00 PM

2:21-12517 Law Offices of Brian D. Witzer

Chapter 11

#8.00 Hrg re: First interim Application for Compensation
and reimbursement of expenses of Michael Jay Berger
Debtor's Attorney

Docket 106

Tentative Ruling:

Please see the tentative ruling for the Status Conference (Calendar No. 9,
6/29/21 at 1:00 p.m.).

Party Information

Debtor(s):

Law Offices of Brian D. Witzer

Represented By
Michael Jay Berger

Movant(s):

Law Offices of Brian D. Witzer

Represented By
Michael Jay Berger

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2:21-12517 Law Offices of Brian D. Witzer

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#9.00 Cont'd Status Conference re: Chapter 11 Case
fr. 3/31/21, 4/27/21, 5/11/21, 6/15/21

Docket 1

Tentative Ruling:

Tentative Ruling for 6/29/21:

Appearances required.

(1) Current issues

(a) Compensation application by Debtor's bankruptcy counsel, law offices of Michael Jay Berger (dkt. 106); Opposition of Pravati Credit Fund III LP ("Pravati") (dkt. 123)

The tentative ruling is to grant the application for the reasons stated in applicant's reply, but only authorize payment as funds allow. Specifically, the tentative ruling is to approve fees of \$39,700.00 plus expenses of \$776.35 for total of \$40,476.35, to be paid by applying the retainer balance of \$12,912.00 immediately, with the balance of \$27,564.35 to be paid in future as funds allow, after applicant files a declaration establishing that the estate has sufficient funds, and lodges a proposed order authorizing such payment.

(b) Debtor's Application to Employ Benedon & Serlin, A Limited Liability Partnership as Special Counsel (dkt. 98); Pravati's Opposition (dkt. 112); Order Setting Hearing (dkt. 115); Debtor's reply (dkt. 126)

Grant in part and continue in part. The tentative ruling is to grant the application with respect to the Trejo Matter (as defined in the application) and continue the hearing with respect to the Pravati matter, to address some of the issues raised in Pravati's opposition.

On the one hand, the tentative ruling is that on the Pravati matter Debtor's reply is persuasive in its part "1" (issues about the timeliness of the appeal are for the State Courts) and part "3" (Debtor will benefit from retaining special counsel). On the other hand, the tentative ruling is that Pravati is correct that (i) funding of the proposed retainer requires a supplemental cash collateral motion, (ii) Mr. Witzer should share the expense of special counsel, or alternatively he and Debtor must have their own

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separate counsel, (iii) any authorization to employ special counsel must be subject to certain limitations, although not the specific limitations proposed by Pravati, and (iv) more information is required about potential conflicts of interest between Mr. Witzer and Debtor with respect to the Pravati matter.

(i) The proposed etainer requires a supplemental cash collateral motion

Debtor's reply implies that any issue about the use of cash collateral can be deferred: "this Court has the discretion to approve the Application with the retainer to be used [only] upon [future] approval of interim fee applications by the Court and approval to use cash collateral, as needed." Dkt. 126, p.6:6-9. The tentative ruling is that the cash collateral issue cannot be deferred.

Even before a "retainer" is "used," the mere establishment of a retainer is a use of funds, and Debtor cannot use any funds that constitute Pravati's cash collateral without this Court's approval. That will require filing and serving a supplemental cash collateral motion.

Debtor's original cash collateral motion (dkt.6) did not include the retainer in its budget. See *id.* at Ex.1, at PDF pp.16-17. Both Pravati and the other lienholder must be provided with notice and an opportunity to oppose this proposed use of their (alleged) cash collateral.

In reaching the foregoing tentative ruling, this Court is aware of Debtor's assertions that Pravati has no lien on the cash at issue because its purported lien is avoidable as a preference (and possibly other reasons). But this Court is also aware of Pravati's contrary assertions, and this Court has not made any rulings on such issues. See *generally* Pravati Obj. to Cash Collateral Mot. (dkt.46); 1st Am. Compl. (Adv. No. 2:21-ap-01084-NB, adv. dkt.2); MTD (adv.dkt.6) (raising other issues); Opp. to MTD (adv.dkt.10) (same).

This Court is also aware that even if Pravati establishes that the funds at issue are its cash collateral, that does not give Pravati (or any other entity with an interest in cash collateral) an absolute right to block the use of such funds. Rather, it has a right to adequate protection. 11 U.S.C. 363(e). Again, though, the tentative ruling is that those issues are not properly before this Court, and will need to be addressed if they are renewed by the parties in connection with a supplemental motion for use of cash collateral.

(ii) Mr. Witzer should share the expenses of special counsel

The tentative ruling is that Mr. Witzer must bear his "fair share" of the

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litigation costs. The tentative ruling is that the starting point would be a 50/50 share, because the judgment at issue is against both Mr. Witzer and Debtor. In addition, the tentative ruling is that the burden is on any party who seeks to depart from that allocation to establish that a different allocation is appropriate.

But the tentative ruling is that, on the present record, Pravati has met that burden. Pravati argues that the litigation would appear most likely to provide little or no benefit to Debtor - apparently because, according to Debtor, Pravati's liens against Debtor's assets are already avoidable - but will benefit Mr. Witzer - apparently because if the litigation is successful it will have the effect of avoiding Pravati's judgment lien(s) on his personal assets. See Opp. (dkt.112), pp.7:13-8:5.

The tentative ruling is to set a deadline for Debtor to file and serve a supplemental brief and/or declaration(s) rebutting the foregoing, or alternatively for Debtor and Mr. Witzer to arrange for each of them to have separate counsel (subject to this Court's approval of any proposed counsel for Debtor). The tentative deadline for such supplemental brief and/or declaration(s) is set forth below.

(iii) Any authorization to employ special counsel must be subject to certain limitations

Pravati argues that if any employment of special counsel were to be approved, it should be limited to \$5,000.00 and specific issues. See Opp. (dkt.112), p.10:9-14. The tentative ruling is that these specific limitations are not appropriate, but that both Debtor and any special counsel are subject to more overarching limitations.

A debtor in possession of the bankruptcy estate has the duties of a trustee for the benefit of creditors, and both Debtor and any counsel for Debtor (including special counsel) have a duty to balance the expense of any litigation or transactional matters against the likely benefits and detriments of any act or decision not to act. To state some very simple examples, usually it would be inappropriate to spend \$100,000 to recover \$50,000; and likewise it would be inappropriate to spend \$100,000 on a 50% chance to recover \$100,000.

Of course, any cost/benefit analysis must be not be subject to "20/20 hindsight." But a failure to exercise appropriate judgment based on the facts and circumstances at the time of each decision to incur more fees may result in a reduction of fees or other adverse consequences.

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(iv) Potential conflicts of interest

As the employment application notes, proposed special counsel currently represents both Debtor and Mr. Witzer individually. See dkt. 98, p.2, n.1. The tentative ruling is that greater disclosure is required, to address actual or potential conflicts of interest. If, as Pravati asserts, there is a substantial difference in how much or how little Mr. Witzer and Debtor stand to gain or lose, then that might create conflicts of interest.

To illustrate with a hypothetical example, suppose that as against Mr. Witzer individually Pravati has an un-avoidable lien against \$1 million of his net assets, and suppose that Pravati will have a \$0 lien against Debtor's assets. Finally, suppose that Pravati offers to settle for \$1 million.

In that hypothetical scenario, Mr. Witzer potentially has no incentive to settle (he stands to lose his entire \$1 million of net assets), whereas Debtor potentially has every incentive to settle (if Mr. Witzer's assets are used to satisfy the settlement, Debtor might owe \$0). This hypothetical example is intentionally set up to be completely unrealistic; but the point is that without more disclosure, probably including Mr. Witzer's own assets and liabilities, this Court cannot determine whether proposed special counsel "does not represent or hold any interest adverse to the debtor or to the estate, with respect to the matter on which such [special counsel] is to be employed." 11 U.S.C. 327(e). See also *In re Sonya D. Intern., Inc.*, 484 B.R. 773 (Bankr. C.D. Cal. 2012) (authorizing joint representation of debtor and non-debtor, with fee sharing, but noting potential for disqualifying conflicts or lack of disinterestedness).

For more specifics regarding the types of disclosures that may be required, Debtor is directed to the following excerpt from the posted Procedures of Judge Bason (available at www.cacb.uscourts.gov):

Declarations and/or briefs generally are required to address the ethical concerns involved whenever a retainer is paid by a third party. See Cal. Rule of Prof'l Conduct 1.8.6; *In re 9469 Beverly Crest, LLC* (Case No. 2:19-bk-20000-NB, dkt.44).

The present situation goes beyond funding a retainer - it includes joint representation and funding the entire appellate litigation with Pravati. But the above-referenced sources are a starting point for considering the ethical issues and the bankruptcy-specific issues.

The tentative ruling is to set a deadline for Debtor to file and serve any brief and/or declaration(s) addressing these issues. The specific deadline is

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set forth below.

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(v) Conclusion as to employment of special counsel

The tentative ruling, in view of the July 4 holiday, is to set a **deadline of 7/13/21** for Debtor to file and serve any brief(s) and/or declaration(s) addressing the foregoing issues, a **deadline of 7/20/21** for Pravati to respond, and a **deadline of 7/27/21** for Debtor to reply, with a continued **hearing on 8/3/21 at 1:00 p.m.**

(c) Debtor's motion for relief from the Automatic Stay (the "R/S Motion," dkt. 100), Pravati's Opposition (dkt. 109-111), Reply of Debtor (dkt. 117)

This Court's tentative ruling for the 6/15/21 hearing (reproduced below) was that Debtor's reply adequately addresses the issues raised in Pravati's Opposition. But, because this Court's tentative ruling above is to continue Debtor's application to employ special counsel, the tentative ruling is that it would be premature to grant the R/S Motion. Accordingly, the tentative ruling is to continue the R/S Motion to be contemporaneous with the continued hearing on employment of special counsel.

Proposed orders: Debtor is directed to lodge proposed orders on each of the foregoing motions via LOU within 7 days after the hearing date and attach a copy of this tentative ruling to an interim order on the application to employ special counsel, thereby adopting it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B). The interim order on the R/S motion should simply provide for a continuance, for the reasons stated in the interim order on the application to employ special counsel.

(d) Status Conference issues: possible use of estate funds, including cash collateral, to pay prepetition debts and to fund retainer for special counsel

Debtor asserts that "it is not unusual for the Debtor to have its prepetition bank accounts open for a few days after the bankruptcy case is filed in order to honor its prior obligations." Dkt. 126, p.7:1-3. This Court disagrees completely.

Prepetition debts generally may not be paid until the effective date of a

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plan of reorganization, or as otherwise authorized such as for payroll motions and payment of liens out of the proceeds of sales, under 11 U.S.C. 363(b). Cf. 11 U.S.C. 549 (avoidance of unauthorized postpetition transfers). Debtor apparently made some payments without seeking authorization under section 363(b) (or other applicable provisions of the Bankruptcy Code).

A related issue, noted above, is that Debtor may not use of any cash that qualifies as the cash collateral of any entity absent the consent of that entity or approval of this Court. 11 U.S.C. 363(c). If Debtor used any cash collateral without such approval (either to pay prepetition claims or for any other purpose), that may have violated the Bankruptcy Code.

Nevertheless, the tentative ruling is that this Court will not, *sua sponte*, take any action at this time regarding any unauthorized payments of prepetition debts or unauthorized use of cash collateral. Debtor is cautioned, however, that in future any unauthorized acts might be a factor, when combined with other apparent violations of the Bankruptcy Code or this Court's orders, in granting some form of relief upon a proper request by a party in interest. See, e.g., 11 U.S.C. 1112(b)(4)(D) ("unauthorized use of cash collateral substantially harmful to 1 or more creditors" is "cause" to convert or dismiss case).

(2) Dates/procedures. This case was filed on 3/29/21.

- (a) Bar date: 7/6/21.
- (b) Procedures order: dkt. 4 (service cured, see dkt. 8, 82)
- (c) Plan/Disclosure Statement: TBD
- (d) Continued status conference: 7/6/21 at 2:00 p.m., concurrent with other matters. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov

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instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 6/15/21:

Continue as set forth below. Appearances are not required on 6/15/21.

(1) Current issues

(a) Motion of Debtor For Relief From The Automatic Stay (the "R/S Motion," dkt. 100), Opposition of Pravati Credit Fund III LP ("Pravati") (dkt. 109-111), Reply of Debtor (dkt. 117)

Although the tentative ruling is that Debtor's reply (dkt. 110) adequately addresses the issues raised in Pravati's opposition papers (dkt.109-111), nevertheless it would make no sense to grant relief from the automatic stay to pursue litigation if Debtor cannot hire special counsel to represent Debtor in that litigation. Accordingly, the tentative ruling is to continue Debtor's R/S Motion to the same time as the hearing on Pravati's objection to Debtor's application to employ special counsel (which is the same time as the continued Status Conference, set forth below).

(2) Dates/procedures. This case was filed on 3/29/21.

(a) Bar date: 7/6/21.

(b) Procedures order: dkt. 4 (service cured, see dkt. 8, 82)

(c) Plan/Disclosure Statement: TBD

(d) Continued status conference: 6/29/21 at 1:00 p.m., no written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's

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COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Law Offices of Brian D. Witzer

Represented By
Michael Jay Berger

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2:21-12517 Law Offices of Brian D. Witzer

Chapter 11

#9.10 Cont'd hrg re: Motion for relief from stay [NA]
fr. 6/15/21

LAW OFFICES OF BRIAN D. WITZER
VS
DEBTOR

Docket 100

Tentative Ruling:

Party Information

Debtor(s):

Law Offices of Brian D. Witzer

Represented By
Michael Jay Berger

Movant(s):

Law Offices of Brian D. Witzer

Represented By
Michael Jay Berger

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2:19-24048 110 West Properties, LLC

Chapter 11

#10.00 Hrg re: Motion for Order Authorizing Allowance
of Administrative Claim of Ian Hunter

Docket 290

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 12,
6/29/21 at 1:00 p.m.).

Party Information

Debtor(s):

110 West Properties, LLC

Represented By
Gregory K Jones
Jeffrey Huron
Danielle N Rushing
Jong-Ju Chang

Movant(s):

Ian Hunter

Represented By
Gregory M Salvato

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2:19-24048 110 West Properties, LLC

Chapter 11

#11.00 Cont'd hrg re: Motion for Entry of an Order Authorizing the Debtor to Retain and Compensate Professionals Utilized by the Debtor in Ordinary Course of Business
fr. 1/26/21, 2/9/21, 03/02/21, 4/6/21, 4/27/21, 5/11/21, 6/1/29

Docket 186

Tentative Ruling:

Tentative Ruling for 6/29/21:

Please see the tentative ruling for the status conference (Calendar No. 12, 6/29/21 at 1:00 p.m.).

Tentative Ruling for 6/1/21:

Please see the tentative ruling for the status conference (Calendar No. 8, 6/1/21 at 2:00 p.m.).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

110 West Properties, LLC

Represented By
Gregory K Jones
Jeffrey Huron
Danielle N Rushing
Jong-Ju Chang

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2:19-24048 110 West Properties, LLC

Chapter 11

#12.00 Status Conference re: Post Confirmation
fr. 12/17/19, 1/28/20, 02/18/20, 3/31/20, 4/21/20,
5/12/20, 6/2/20, 6/30/20, 8/18/20, 9/15/20, 10/27/20,
12/8/20, 1/26/21, 2/9/21, 03/02/21, 4/6/21, 4/27/21,
5/11/21, 6/1/21

Docket 5

Tentative Ruling:

Tentative Ruling for 6/29/21:

Appearances required.

(1) Current issues

(a) Debtor's applications to retain and compensate ordinary course professionals (dkt. 186, "Ordinary Course Application"), Opposition of Dos Cabezas (dkt. 194), Debtor's reply (dkt. 198), Stipulation to withdraw Dos Cabezas' opposition and order thereon (dkt. 247, 248), Stipulation to continue hearing (dkt.269), Debtor's supplemental papers (dkt. 296)

In view of the additional explanations provided in Debtor's supplemental papers, the tentative ruling is to grant the motion. Even though, at least previously, it appeared that Hammonds & Frey and Hunter & Company might well be professionals whose employment required this Court's approval, no party is presently arguing that position, and this Court is not persuaded *sua sponte* to find that employment was required as a precondition to payment for those parties' post-petition services.

Alternatively, as to Hammonds & Frey, it has waived its prepetition claim, and based on the supplemental papers it is appropriate to authorize their employment retroactively to the extent (if any) that such authorization might be required. Alternatively, as to Hunter & Company/Ian Hunter, the tentative ruling is to authorize payment as set forth below (provided that there is no duplication of payment).

(b) Ian Hunter's motion for administrative expense claim (dkt. 290), no opposition on file

As an alternative to the relief granted in Section (1)(a) above, the

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CONT... 110 West Properties, LLC

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tentative ruling is to grant this motion on each of the alternative grounds therein, including the "substantial contribution" ground, subject to Movant appearing to address the issues raised in this Court's Order requiring appearances at this hearing (dkt. 297), and further subject to not providing any duplication of payments.

(2) Deadlines/dates. This case was filed on 11/29/19.

(a) Bar date: 3/31/20 (dkt.46, timely served, dkt.49).

(b) Procedures order: dkt. 2 (timely served, dkt. 8, 9)

(c) AmPlan (dkt. 272)/AmDisclosure Statement (dkt. 244)*: Order confirming plan entered 6/4/21 (dkt. 283).

(d) Post-Confirmation status conference: 9/28/21 at 1:00 p.m. Post-confirmation status report due 9/14/21.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

110 West Properties, LLC

Represented By

Gregory K Jones

Jeffrey Huron

Danielle N Rushing

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110 West Properties, LLC

Jong-Ju Chang

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2:20-18370 New Hillcrest Inc., a Cayman Island Corporation

Chapter 11

#13.00 Cont'd Status Conference re: Chapter 11 Case
fr. 10/6/20, 12/1/20, 1/26/21, 3/2/21, 4/6/21, 4/27/21,
6/1/21

Docket 1

***** VACATED *** REASON: Order dismissing case entered 6/23/21 (dkt.
89)**

Tentative Ruling:

Party Information

Debtor(s):

New Hillcrest Inc., a Cayman Island

Represented By
Brett Ramsaur

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2:21-10956 LAX In-Flite Services, LLC

Chapter 11

#14.00 Cont'd hrg re: Motion of Debtor for Approval
of Sale of Substantially All of its Assets
fr. 05/11/21, 05/19/21, 05/26/21, 06/15/21

Docket 59

Tentative Ruling:

Tentative Ruling for 6/29/21:

Please see the tentative ruling for the status conference (Calendar No. 15, 6/29/21 at 1:00 p.m.).

Tentative Ruling for 6/15/21:

Please see the tentative ruling for the status conference (Calendar No. 14, 6/15/21 at 1:00 p.m.).

Tentative Ruling for 5/26/21:

Please see the tentative ruling for the status conference (Calendar No. 2, 5/26/21 at 3:30 p.m.).

Tentative Ruling for 5/19/21:

Please see the tentative ruling for the status conference (Calendar No. 2, 5/19/21 at 2:30 p.m.).

Party Information

Debtor(s):

LAX In-Flite Services, LLC

Represented By
Jeremy H Rothstein

Movant(s):

LAX In-Flite Services, LLC

Represented By
Jeremy H Rothstein
Jeremy H Rothstein

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Trustee(s):

John-Patrick McGinnis Fritz (TR)

Pro Se

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2:21-10956 LAX In-Flite Services, LLC

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#15.00 Cont'd Status Conference re: Chapter 11 Case
fr. 02/25/21, 03/02/21, 4/6/21, 4/27/21, 5/11/21,
5/19/21, 5/26/21, 6/15/21

Docket 1

Tentative Ruling:

Tentative Ruling for 6/29/21:

Appearances required.

(1) Current issues

(a) Debtor's motion to sell substantially all of its assets ("Sale Motion," dkt. 61-65, 67), Opposition of Ruth Gonzales, Braubert Andres, and Guillermo J. Lopez Gutierrez ("Gonzales et al.") (dkt. 77), SubchapterV Trustee's response (dkt. 83), Joinder of Samuel Pearce Trust ("Pearce") (dkt. 86), Debtor's reply to Gonzales et al. (dkt. 88), Debtor's reply to SubchapterV Trustee's response (dkt. 95), Schedules to APA (dkt. 99), Stipulation/Order continuing hearing (dkt. 102, 104)

There is no additional tentative ruling beyond what this Court has previously provided. The parties should be prepared to address the issues set forth in this Court's 5/19/21 tentative ruling (copied below).

(2) Dates/procedures. This case was filed on 2/5/21.

(a) Bar date: 4/16/21 per General Order 20-01 (70 days after petition date in Subchapter V cases) (DO NOT SERVE any notice: one has already been sent, see dkt.16).

(b) Procedures order: dkt.3 (timely served, dkt.9)

(c) AmPlan/AmDisclosure Statement: TBD

(d) Continued status conference: 7/6/21 at 1:00 p.m., concurrent with other matters. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances

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required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[INTERIM TENTATIVE RULINGS OMITTED]

Tentative Ruling for 5/19/21:

Appearances required.

(1) Current issues

(a) Debtor's motion to sell substantially all of its assets ("Sale Motion," dkt. 61-65, 67), Opposition of Ruth Gonzales, Braubert Andres, and Guillermo J. Lopez Gutierrez ("Gonzales et al.") (dkt. 77), SubchapterV Trustee's response (dkt. 83), Joinder of Samuel Pearce Trust ("Pearce") (dkt. 86), Debtor's reply to Gonzales et al. (dkt. 88), Debtor's reply to SubchapterV Trustee's response (dkt. 95), Schedules to APA (dkt. 99)

The tentative ruling is that the following issues must be addressed before any sale can be approved. On the one hand, the tentative ruling is that Debtor has established sufficient justification for a quick sale of substantially all of its assets without overbids, instead of the delays and expenses of attempting to market the assets and hold an auction, which likely would result in *lower* net recoveries. Likewise, the tentative ruling is that Debtor has established sufficient justification for a sale instead of attempting to accomplish the same transaction through a chapter 11 plan, again because of the projected delays and costs of the latter proceeding (although those disadvantages might be exaggerated, given the speed and efficiency that are possible in Subchapter V).

In addition, the tentative ruling is that any sale can be free and clear of liens and other interests under 11 U.S.C. 363(f). Although this Court is not persuaded that "applicable nonbankruptcy law" provides for a sale of

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substantially all assets to an insider free and clear of successor liability and other interests in the assets (section 363(f)(1)), or that a lack of objection is the same as "consent[]" (section 363(f)(2)) (dkt.59, pp.11:3-12:10), nevertheless section 363(f)(4) and (5) apply. Any purported lien or interest would qualify as "disputed" under section 363(f)(4), because of Debtor's lien searches, the lack of notice to Debtor of any other encumbrances or interests (other than Permitted Encumbrances), and the usual grounds for contesting any successor liability. Alternatively, this Court is persuaded that section 363(f)(5) applies because of the existence of "legal or equitable proceeding[s]" that could compel holders of any liens or other interests to accept a "money satisfaction," such as foreclosures and receiverships in which sales can be accomplished free and clear. As stated in the posted "Procedures of Judge Bason" (available at www.cacb.uscourts.gov) under "Common matters":

Regarding § 363(f)(5), the judge does not follow *Clear Channel Outdoor, Inc. v. Knupfer (In re PW, LLC)*, 391 B.R. 25, 40 (B.A.P. 9th Cir. 2008). He has ruled that a sale free and clear is permissible under § 363(f)(5) whenever the interest at issue is subject to monetary valuation. See *In re Trans World Airlines, Inc.*, 322 F.3d 283, 290-91 (3d Cir. 2003) ("*TWA*") (because employees' claims were "subject to monetary valuation," debtor's assets could be sold free and clear of successor liability for such claims under § 363(f)(5)). Alternatively, the judge has ruled that "cramdown" is among the types of legal or equitable proceeding within the statute, or that *Clear Channel* is distinguishable in most cases under the rationale of *In re Jolan*, 403 B.R. 866 (Bankr. W.D. Wash. 2009), because holders of interests can be compelled in numerous other types of legal or equitable proceedings to accept a money satisfaction (which might be \$-0- in the case of an interest that is entirely underwater). Those proceedings include a hypothetical foreclosure by one of the lienholders, or a receivership (which could be initiated at the behest of creditors or by the debtor itself). See Cal. Code Civ. Proc. ("CCP") §564(b)(9) (power to appoint receiver to sell property); CCP § 568.5 (receiver empowered to sell property as provided in CCP §§701.510 et seq.); CCP § 701.630 (extinguishment of liens); CCP § 701.680 (binding effect of sale). The judge respectfully disagrees with *In re Hassen Imports P'ship*,

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502 B.R. 851, 860 et seq. (C.D. Cal. 2013) (hypothetical foreclosure sale did not qualify under section 363(f)(5)). See generally *In re Catalina Sea Ranch, LLC* (Case No. 2:19-bk-24467-NB), dkt. 122 (approving sale to insider, free and clear of successor liability).

On the other hand, (i) the insider nature of the proposed transaction requires greater scrutiny and (ii) unless the proposed sale is assured of generating funds sufficient to pay a meaningful dividend to nonpriority unsecured creditors, it does not appear appropriate to approve the proposed sale. This Court's reasoning is that, if a sale is a permissible substitute for a plan (under *Braniff, Lionel, Walter, Continental Airlines, Coastal Indus., Abbots Dairies*, etc. - see dkt.83, *passim and especially* pp.2:19-5:4 and 8:1-16:17), then this Court must consider whether the proposed transaction, if embodied in a proposed plan, would fail the tests for confirmation, and whether the proposed transaction would otherwise be contrary to the process and distribution scheme contemplated by the Bankruptcy Code. This approach is consistent with the definition of "cause" to dismiss or convert a case under 11 U.S.C. 1112: if no plan could be confirmed within any reasonable time frame, then this Court "shall" convert or dismiss the case. See 11 U.S.C. 1112(b)(4)(J).

The tentative ruling is that, if no meaningful dividend can be assured, then the proposed disposition of Debtor's assets would not satisfy the "fair and equitable" standard for confirmation of any plan, and it would be inappropriate to permit an "end run" around that standard, without even having an opportunity for creditors to vote (because there is no plan), while providing insiders with various benefits from the proposed transaction. In addition, there is insufficient assurance, on such shortened time, that the best interests of creditors test (11 U.S.C. 1129(a)(7)) would not favor a chapter 7 liquidation.

Conversion to chapter 7 would preserve the integrity of the system by enabling an independent investigation and assessment. Specifically, it is possible that a chapter 7 trustee: (w) could either obtain a better sale price from the proposed buyer or competitors, (x) could investigate Debtor's vague assertions that unspecified "problems" (dkt. 59, p.3:20) transformed a business from one that "historically operated at a profit" (*id.*, p.3:19) into one that allegedly "would require significant capital investment before it could

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even break even" (*id.*, p.4:16-17), (y) could uncover claims against insiders, avoidance actions, or other sources of recoveries, and alternatively (z) could, at the very least, provide greater assurance that all "stones had been turned over" to explore whether the foregoing recoveries were possible.

In other words, the tentative ruling is that it is inappropriate to authorize a sale of substantially all assets, with the benefits and protections to insiders and the buyer of releases and cutting off potential successor liability and other claims, unless a meaningful dividend to nonpriority unsecured creditors can be assured. True, conversion or dismissal of this case might produce *smaller*, not greater, chances of any meaningful recoveries. But the tentative ruling is that the integrity of the system requires either the protections of a chapter 7 trustee or, alternatively, assurance of a meaningful distribution to nonpriority unsecured creditors. Absent the latter, the tentative ruling is that this Court cannot approve the proposed quick, no-voting, no-overbid sale to insiders with releases and a transfer of assets to them free and clear of successor liability.

(b) Plan (dkt. 89)

The tentative ruling is that, although Debtor's Plan is essentially a blank slate, the details of which Debtor proposes to supply after the (hoped for) approval of the Sale Motion, that is sufficient under the circumstances. The tentative ruling is not to take any further action with respect to the Plan at this time.

(2) Dates/procedures. This case was filed on 2/5/21.

(a) Bar date: 4/16/21 per General Order 20-01 (70 days after petition date in Subchapter V cases) (DO NOT SERVE any notice: one has already been sent, see dkt.16).

(b) Procedures order: dkt.3 (timely served, dkt.9)

(c) Plan/Disclosure Statement: See Section (1)(b) above.

(d) Continued status conference: 6/15/21 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances

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required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

LAX In-Flite Services, LLC

Represented By
Jeremy H Rothstein

Trustee(s):

John-Patrick McGinnis Fritz (TR)

Pro Se

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2:21-11352 Stern Holdings, Inc.

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#16.00 Cont'd Status Conference re: Chapter 11 Case
fr. 3/23/21, 4/27/21, 6/1/21

Docket 1

Tentative Ruling:

Tentative Ruling for 6/29/21:

Appearances required.

(1) Current issues

(a) Dismiss this case with a bar, and issue orders to show cause why Debtor's principal and its proposed counsel should not be sanctioned ("OSCs")

The tentative ruling, is to dismiss this case with a 180 day bar against being a debtor in bankruptcy due to "willful failure of the debtor to abide by orders of the court, or to appear before the court in proper prosecution of the case." 11 U.S.C. 109(g)(1). In addition, the tentative ruling is to issue OSCs directing Debtor's principal (Mr. Melamed) and Debtor's proposed counsel (meaning both the Abbasi Law Corporation and Matthew Abbasi individually) to appear and show cause why they should not be subject to sanctions, (x) for the reasons set forth in this Court's 6/1/21 tentative ruling (copied below) in the amount of **\$200 each**, for Mr. Melamed and proposed counsel, and also (y) for the following additional reasons, in the amount of **\$50 against Mr. Melamed** for the MOR/UST fee issue described below, and **\$2,000 against Debtor's proposed counsel** for apparently false, belated statements regarding conflicts of interest and other disqualifications to represent this Debtor.

(i) Continued failure to comply with reporting requirements

Despite this Court's admonitions in the 6/1/21 tentative ruling about filing late Monthly Operating Reports ("MORs"), Debtor's May MOR (which was due 6/15/21) was not filed until 6/24/21. In addition, that MOR is mostly blank, including the part reflecting payment of quarterly fees to the Office of the United States Trustee ("UST"), which means Debtor either is not making the required payments (without explaining why in the MOR), or Debtor is not accurately reporting payments. See MOR (dkt.50) p.6. What else is missing

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or inaccurate in Debtor's MORs?

(ii) Failure to obtain valuation of property, or other apparent progress

This Court was persuaded not to dismiss this case on 6/1/21 based on proposed counsel's representation the Debtor would be filing papers demonstrating the steps it has taken to move this case forward. But as of the preparation of this tentative ruling the docket does not reflect any apparent progress.

True, Debtor's (late) MOR asserts that Debtor has "achieved [a] tentative deal with Creditor, Prime Point which needs to be approved by the court. Additionally, the Debtor has made substantial progress on its plan for its properties." Dkt.50, p.8, Questionnaire item 3. Those vague phrases are essentially meaningless.

There is no indication that, after more than four months in bankruptcy, Debtor has made any tangible progress. To the contrary, as set forth below, the apparent conflicts and other problems involving Debtor's proposed counsel probably mean that any tentative deal with Prime Point cannot be approved.

(iii) Employment of bankruptcy counsel

Debtor filed this case on 2/19/21, but has only belatedly filed an employment application a month later, and very belatedly lodged a proposed order approving that application four months later. See dkt. 20-22, 48, 49. For the following reasons, this Court has concerns about the proposed employment. Some of those concerns might be easily addressed; but they get progressively worse, and they culminate in apparent conflicts of interest and related concerns that appear to disqualify counsel entirely.

A. Missing retainer agreement. Proposed counsel refers to a retainer agreement (dkt. 20, pp.4:19, 5:9), but the retainer agreement is not attached. That is troubling because retainer agreements sometimes include matters such as purported waivers of conflicts of interest that are impermissible (in fact, as set forth below, the application papers do include a purported waiver of conflicts of interest).

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B. Third party funder. Proposed counsel discloses that it received a pre-petition retainer from Shahin Melamed, who holds a 50% membership interest in the Debtor (dkt. 20, pdf p.18:5-7) and that Mr. Melamed and/or his other businesses have agreed to pay all of proposed counsel's post-petition fees and costs (*id.*, pdf p.18:14-16) and that all funds provided by Mr. Melamed or his affiliates are intended to be contributions and not loans (*id.*, pdf p.18:11-20). This raises certain ethical issues because a third party funder who funds a retainer and ongoing attorneys' fees and costs for a debtor (a "Funder") may have a variety of motivations for providing the funding, including not just a desire to protect prior equity investments or loans to Debtor, but also, for example, being the recipient of an avoidable preference, or having alter ego liability, or otherwise having interests that are adverse to (or at least not fully aligned with) the bankruptcy estate or creditors. For these reasons, although payment of a retainer by a Funder is not outright prohibited, it is fraught with ethical concerns. *If* this Court is persuaded not to dismiss this case, proposed counsel should be prepared to address the following issues (for purposes of the following discussion, the "Funder" includes not just Mr. Melamed but all of his affiliates who may contribute funds):

(1) Connections. What are *all* of the connections between the Funder, on the one hand, and Debtor, Debtor's proposed counsel, and any of the other types of persons listed in FRBP 2014, on the other hand – *e.g.*, have there been any economic or business or personal connections between the Funder and Debtor *beyond* the fact of being direct or indirect equity owners, or between the Funder and proposed counsel, or any creditor or other party in interest, or their respective attorneys or accountants? These questions may be answered, if appropriate, by referring to *specific* disclosures already on file, *e.g.*, in the bankruptcy schedules.

(2) Informed consent of Funder. Has the Funder been advised regarding actual and potential conflicts of interest, and that the sole attorney-client relationship and duty of loyalty is with Debtor, not the Funder? Who provided such advice: independent counsel, or Debtor's proposed counsel (and, if the latter, was the Funder given the opportunity to obtain independent counsel)? Has

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the Funder given informed consent? Are those things in writing? If any Funder has other equity owners, have they given their informed consent in writing?

(3) Informed consent of debtor. Has the debtor likewise been fully advised and given informed consent? Who provided such advice? Are these things in writing?

(4) Other consideration. Has proposed counsel demonstrated or represented to the Court the absence of an actual or potential conflict, a lack of disinterestedness, or any other basis for disqualification? See *In re Kelton Motors, Inc.*, 109 B.R. 641 (Bankr. D. Vt. 1989); *In re Hathaway Ranch Partnership*, 116 B.R. 208, 219 (Bankr. C.D. Cal. 1990); *In re Park-Helena Corp.*, 63 F.3d 877 (9th Cir. 1995).

C. Purported waiver of conflicts. Proposed counsel states that, to the extent any potential or actual conflicts of interest exist or arise between the Debtor, Mr. Melamed and/or Mr. Ali Nowaid (who holds the other 50% membership interest in the Debtor) as a result of the Mr. Melamed's payment of proposed counsel's pre-petition retainer and post-petition fees and costs or, presumably for any other reason (see below re apparent conflicts), the parties have agreed to waive all conflicts of interest (dkt. 20, p.5:3-8 & pdf p.14, para. "(5)"). But proposed counsel has not cited any authority in support of those assertions, and in general a debtor in possession cannot waive conflicts on behalf of the bankruptcy estate/creditors. *If* this Court is persuaded not to dismiss this case, the tentative ruling is to disapprove of any provision in proposed counsel's retainer agreement in which Debtor purports to waive any conflict of interest on behalf of the estate. See *In re Triple Star Welding, Inc.*, 324 B.R. 778, 791 (9th Cir. BAP 2005) (informed consent to waive conflicts cannot be obtained because "the real parties in interest" are "the creditors, and that is not a waivable conflict") (citation and internal quotation marks omitted).

D. Conflicts of Interest. Mr. Melamed's declaration states that Debtor sought bankruptcy protection to prevent the loss

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of its real property located at 7227 Oleander Avenue, Fontana, CA 92336 (the "Property") in a foreclosure sale (dkt. 20, pdf p.8:11-14) and that there is currently a dispute between Debtor's two secured creditors (All Star Financial ("All Star") and Prime Point Contracting, Inc. ("**Prime Point**")) over which of the two entities holds the first-priority lien against Debtor's real property (*id.*, pdf p.8:18-25). Mr. Melamed further states that that resolution of the dispute between All Star and **Prime Point** is very important to Debtor's plan and that Debtor intends to seek a determination of lien priority in an action pending in State Court that **Prime Point** initiated to foreclose on its judgment lien (*id.*, pdf p., 9:1-6). In other words, disputes with **Prime Point** are central to this bankruptcy case.

Proposed counsel states that it does not have any conflicts of interest (*id.*, pdf p.14, para. "(5)") that would prevent it from representing Debtor. But proposed counsel discloses that it represents Prime Point in an unrelated employment law matter (*id.* pdf p.15, para. "(6)"). In addition, **proposed counsel discloses that for many years it has represented the co-defendants in that employment law matter: Prime Point's owner, Anthony Nowald, and to a lesser extent his son, Ali Nowald, who is also the 50% co-owner of Debtor.** *Id.*, pdf pp.15-18. In other words, proposed counsel appears to have **direct conflicts of interest** because it has duties of loyalty to Prime Point, its owner, and his son, all of whom are on opposite sides of disputes with (x) Debtor (foreclosure etc.), (y) All Star (lien priority etc.), and (z) all other creditors and equity holders in this bankruptcy case (because proposed counsel has a duty to investigate whether, for example, there might be grounds to avoid any lien asserted by Prime Point, or otherwise object to its claim). *See generally, e.g., Triple Star Welding*, 324 B.R. 778, 791-797 & nn.12, 14 & 20 (burden is on debtor and professionals to establish disinterestedness and lack of adverse interests, both for employment and for compensation); *In re Sonya D. Intern., Inc.*, 484 B.R. 773, 781 (Bankr. C.D. Cal. 2012) (citing authority that general bankruptcy counsel must review claims "to determine which should be disputed" and to investigate "pre-bankruptcy transactions" and, if such counsel represented creditors then "[a]ny number of possible

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conflicts can be envisioned," although representation of a creditor is not a *per se* disqualification from employment) (citation and internal quotation marks omitted).

In addition, this Court is concerned that these disclosures were not stated prominently in the employment application itself, together with an explanation of how proposed counsel concluded that it is qualified for employment. Instead, the application contains only an oblique reference to the disclosures and a bald assertion (apparently false) that proposed counsel does not represent anyone who has an interest "materially adverse" to Debtor (which, incidentally, is not the complete test under 11 U.S.C. 101(14) and 327(a)):

ALC does not represent [anyone] which has an interest materially adverse to the Debtor in connection with this bankruptcy case or otherwise. ALC has disclosed all of its current and past representations of the Debtor, its owners, and one of its creditors in the present and past matters in the aforementioned Statement which is being filed concurrently with the herein Application. [Dkt.48, p. 5:19-23 (emphasis added).]

The tentative ruling is that, whether or not this case is dismissed, this Court will issue an OSC directing proposed counsel to address the foregoing issues and explain the factual and legal grounds for concluding that its current and past representations of Prime Point, its owner Anthony Nowald, and his son and Debtor's co-owner Ali Nowald, do not create actual conflicts of interest and a lack of disinterestedness that disqualify it from representing the Debtor. The tentative ruling is that proposed counsel's explanation must address the precise words of 11 U.S.C. 327(a), which authorizes employment of professionals who "do not hold or represent an interest adverse to the estate, and that are disinterested persons" and 11 U.S.C. 101(14)(C), which defines "disinterested person" as a person who (among other things) "does not have an interest materially adverse to the interest of the estate or of any class of creditors or equity security holders, by reason of

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any direct or indirect relationship to, connection with, or interest in, the debtor, or for any other reason," and in addition proposed counsel must cite authority supporting its position that it "does not represent [anyone] which has an interest materially adverse to the Debtor" despite its representation of foreclosing creditor Prime Point and its insiders.

(v) Conclusion

Debtor has obtained the benefits of the automatic stay (11 U.S.C. 362(a)) and the other advantages of bankruptcy (e.g., negotiating leverage, and opportunities for restructuring) without bearing the burdens. In addition, Debtor's proposed counsel appears to have made false statements regarding its purported lack of conflicts and its qualifications to represent Debtor in this case.

For the foregoing reasons, the tentative ruling is to dismiss this case with a 180-day bar against being a debtor in bankruptcy, and expressly retain jurisdiction regarding possible sanctions. The tentative ruling is to issue OSCs against Debtor's principal and its proposed counsel, and set those OSCs for hearing at the same time as the continued status conference (see part "(2)" of this tentative ruling, below).

Proposed order: The UST is requested to lodge a proposed order of dismissal via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

After entry of that order on the docket, this Court will prepare the above-referenced OSCs.

(2) Dates/procedures. This case was filed on 2/19/21.

(a) Amended Bar date: 6/30/21 (dkt. 30) (served 1 day late, dkt. 35, 36)

(b) Procedures order: dkt.3 (timely served, dkt.5)

(c) Plan/Disclosure Statement: See Section (1)(a), above.

(d) Continued status conference: 8/17/21 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status

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If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

**Tentative Ruling for 6/1/21:
Appearances required.**

(1) Current issues

(a) Dismiss this case with a bar, and issue order to show cause ("OSC")

The tentative ruling, is to dismiss this case with a 180 day bar against being a debtor in bankruptcy due to "willful failure of the debtor to abide by orders of the court, or to appear before the court in proper prosecution of the case." 11 U.S.C. 109(g)(1). In addition, the tentative ruling is to issue an OSC directing Debtor's principal (Mr. Melamed) and Debtor's counsel to appear and show cause why they should not be subject to sanctions of \$200 each, for the following reasons.

(i) Failure to appear at the 4/27/21 status conference

This Court's tentative ruling posted in advance of the 4/27/21 status conference (copied below) directed Debtor to appear to address certain issues discussed therein, but Debtor failed to appear or otherwise notify Judge Bason's staff in advance of the hearing about any circumstances that might have prompted this Court to excuse Debtor's appearance.

(ii) Failure to comply with reporting requirements

Debtor has repeatedly been late in filing Monthly Operating Reports ("MORs"). See February MOR (dkt. 16, filed 8 days late) & March MOR (dkt.

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CONT... Stern Holdings, Inc.

Chapter 11

32, filed 18 days late). As of the preparation of this tentative ruling, Debtor has not filed its April MOR (due 5/15/21), despite having entered into a stipulation to do so (resolving the motion of the United States Trustee ("UST") to dismiss this case, dkt. 40).

(iii) Failure to obtain valuation of property

Debtor's February MOR stated that valuation of its property is key to the success of its plan (dkt. 16, p. 8), but as of the preparation of this tentative ruling (over two months later) Debtor has not filed any motions to value its real properties. Additionally, Debtor's February and March MORs (dkt. 16 & 32) reflect that Debtor is not operating and Debtor continues to accrue administrative expenses without appearing to take any meaningful steps to reorganize its affairs.

(iv) Incorrect/untimely service of original and amended claims bar date orders

On 3/25/21 this Court issued an original bar date order (dkt. 18) which directed Debtor to serve a copy of the order by 3/30/21, but Debtor failed to serve that order at all. On 4/28/21 this Court issued an amended bar date order (dkt. 30) directing Debtor to "serve a copy of this Order (*not* the notice contemplated by LBR 3003-1)" on all parties in interest no later than 5/3/21 (dkt. 30, p.2, para. "(2)"). Notwithstanding those directions, Debtor appears to have served only the notice contemplated by LBR 3003-1 (see dkt. 35, 36) and even that service was 1 day later than the deadline this Court set.

(v) Conclusion

The foregoing lapses are not terribly serious, and there might (or might not) be good reasons for any one of those lapses (*e.g.*, illness or calendaring errors). But in combination those lapses place undue burdens on other parties in interest (and this Court), and deprive creditors and the UST of timely information that they need. Debtor has obtained the benefits of the automatic stay (11 U.S.C. 362(a)) and the other advantages of bankruptcy (*e.g.*, negotiating leverage, and opportunities for restructuring) without bearing the burdens. That is inappropriate and sanctionable.

The tentative ruling is to set the OSC for the same time as the continued status conference (see part "(2)" of this tentative ruling, below).

(2) Dates/procedures. This case was filed on 2/19/21.

(a) Amended Bar date: 6/30/21 (dkt. 30) (served 1 day late, dkt. 35, 36)

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Hearing Room 1545

1:00 PM

CONT...

Stern Holdings, Inc.

Chapter 11

(b) Procedures order: dkt.3 (timely served, dkt.5)

(c) Plan/Disclosure Statement: See Section (1)(a), above.

(d) Continued status conference: 7/6/21 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 4/27/21:

Appearances required.

(1) Current issues

(a) Service of bar date order

This Court's bar date order (dkt. 18) set a deadline of 3/30/21 for Debtor to serve all interested parties. As of the preparation of this tentative ruling, there is no proof of service reflecting that Debtor timely complied. Have creditors been served with the bar date order? If so, when did that occur and why has Debtor not filed a proof of service?

(b) Monthly Operating Reports ("MORs")

As of the preparation of this tentative ruling, Debtor has not filed its March MOR. Why not?

(2) Dates/procedures. This case was filed on 2/19/21.

(a) Bar date: 5/28/21 (dkt. 18, no proof of service on file)

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CONT...

Stern Holdings, Inc.

Chapter 11

(b) Procedures order: dkt.3 (timely served, dkt.5)

(c) Plan/Disclosure Statement: TBD

(d) Continued status conference: 6/1/21 at 1:00 p.m. *Brief* status report due 5/18/21.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 3/23/21:

Appearances required by counsel for Debtor and by Debtor's principal.

(1) Current issues

(a) Untimely Status report

Debtor filed its status report (dkt. 15) four days late, on 3/13/21, without providing any explanation for the late filing. Debtor/counsel are cautioned that failure to timely comply with this Court's orders in future may result in adverse consequences.

(b) First-day motions

Debtor's status report states that a budget motion is not required by the presiding judge's procedures. Dkt. 15, p.3. That is wrong (see posted "Procedures of Judge Bason," available at www.cacb.uscourts.gov), but the tentative ruling is to excuse this requirement with a caution to counsel not to mis-state the applicable procedures.

If Debtor has not filed an employment application or any other typical

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CONT...

Stern Holdings, Inc.

Chapter 11

so-called "first-day" motion(s) by the time of this hearing, the tentative ruling is to set a deadline of **3/30/21** for Debtor to file any outstanding motion(s) with a hearing concurrent with the continued status conference. Debtor is directed to address at the hearing what other motions are required or appropriate.

(c) Monthly Operating Reports ("MORs")

As of the preparation of this tentative ruling, Debtor has not filed its February MOR. Why not?

(d) Only two creditors?

Debtor's creditor matrix includes only two creditors. Is that really true? How about the City of Fontana which, according to Debtor's Status Report (dkt.15), is considering citations for alleged "violations" of some sort? How about former employees, tax authorities, and other typical creditors?

(2) Dates/procedures. This case was filed on 2/19/21.

(a) Bar date: 5/28/21 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Procedures order: dkt.3 (timely served, dkt.5)

(c) Plan/Disclosure Statement: TBD

(d) Continued status conference: 4/27/21 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

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CONT... Stern Holdings, Inc.

Chapter 11

Party Information

Debtor(s):

Stern Holdings, Inc.

Represented By
Matthew Abbasi

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2:21-11676 Cynthia C. Rodriguez

Chapter 11

#17.00 Cont'd Status Conference re: Chapter 11 Case
fr. 3/23/21, 4/27/21, 5/11/21

Docket 1

Tentative Ruling:

Tentative Ruling for 6/29/21:

Continue as set forth below. Appearances are not required on 6/29/21.

(1) Current issues

(a) Request to extend deadline to file plan/disclosure statement

The tentative ruling is grant Debtor's request to extend the deadline to file a plan and disclosure statement and set a new deadline of **9/28/21** for Debtor to file (but not serve - except on the U.S. Trustee) a plan and disclosure statement, subject to further extension for good cause shown. As to the form of plan etc., see the **revised** "Procedures of Judge Bason" (available at www.cacb.uscourts.gov) (search for "Chapter 11: Plan").

Proposed order: Debtor is directed to lodge a proposed order via LOU within 7 days after the hearing date and attach a copy of this tentative ruling, thereby adopting it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

(2) Dates/procedures. This case was filed on 3/2/21.

(a) Bar date: 6/16/21 (dkt. 39) (not timely served, dkt. 46)

(b) Procedures order: dkt.18 (timely served, dkt.25)

(c) Plan/Disclosure Statement: See above.

(d) Continued status conference: 8/31/21 at 1:00 p.m. *Brief* status report due 8/17/21.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at

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CONT...

Cynthia C. Rodriguez

Chapter 11

www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Cynthia C. Rodriguez

Represented By
Mufthiha Sabaratnam

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2:00 PM

2:19-23664 Liat Talasazan

Chapter 7

#1.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 3/2/21, 5/11/21

MICHAEL TREMBLAY, trustee
vs
DEBTOR

Docket 504

Tentative Ruling:

Tentative Ruling for 6/29/21:

Please see the tentative ruling for the status conference (Calendar No. 4, 6/29/21 at 2:00 p.m.).

Tentative Ruling for 5/11/21:

Please see the tentative ruling for the status conference (Calendar No. 4, 5/11/21 at 11:00 a.m.).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Liat Talasazan

Represented By
Giovanni Orantes
Luis A Solorzano

Movant(s):

Michael Tremblay, Trustee

Represented By
David I Brownstein

Trustee(s):

Caroline Renee Djang (TR)

Represented By
David Wood

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2:19-23664 Liat Talasazan

Chapter 7

#2.00 Cont'd hrg re: Motion for Turnover of Property of the Estate
Pursuant to 11 U.S.C. § 542 35th Street Properties
fr 3/23/21, 4/6/21, 4/27/21, 5/11/21

Docket 543

Tentative Ruling:

Tentative Ruling for 6/29/21:

Please see the tentative ruling for the status conference (Calendar No. 4, 6/29/21 at 2:00 p.m.).

Tentative Ruling for 5/11/21:

Please see the tentative ruling for the status conference (Calendar No. 4, 5/11/21 at 11:00 a.m.).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Liat Talasazan

Represented By
Giovanni Orantes
Luis A Solorzano

Trustee(s):

Caroline Renee Djang (TR)

Represented By
David Wood

**United States Bankruptcy Court
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2:00 PM

2:19-23664 Liat Talasazan

Chapter 7

#3.00 Cont'd hrg re: Trustee's Motion for Order Authorizing Sale of Real Property [636 N. Laurel Avenue, Los Angeles, CA 90048]: (A) Outside the Ordinary Course of Business; (B) Free and Clear of Liens; (C) Subject to Overbids and (D) For Determination of Good Faith Purchasers Under Section 363(m) fr. 5/11/21, 5/20/21

Docket 588

Tentative Ruling:

Tentative Ruling for 6/29/21:

Please see the tentative ruling for the status conference (Calendar No. 4, 6/29/21 at 2:00 p.m.).

Tentative Ruling for 5/20/21:

Continue to 6/29/21 on the 2:00 p.m. calendar (not to be called before 2:30 p.m.), concurrent with other matters. Appearances are not required on 5/20/21.

Reasons: This status conference on the sale of the Laurel Property was set so as to be able to address any issues that might arise concerning the closing of that sale, or any related matters. This Court is not aware of any such matters, and accordingly the tentative ruling is to continue this matter as set forth above.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer

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CONT... Liat Talasazan
permitted.

Chapter 7

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Liat Talasazan

Represented By
Giovanni Orantes
Luis A Solorzano

Trustee(s):

Caroline Renee Djang (TR)

Represented By
David Wood

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2:19-23664 Liat Talasazan

Chapter 7

#4.00 Cont'd Status Conference re: Chapter 7 Case
fr. 1/28/20, 2/18/20, 3/3/20, 3/10/20, 03/31/20,
4/7/20, 5/12/20, 5/19/20, 6/2/20, 6/16/20, 7/28/20,
8/18/20, 9/1/20, 9/15/20, 9/29/20, 10/27/20, 12/1/20,
12/22/20, 2/9/21, 03/02/21, 3/23/21, 4/6/21, 5/11/21

Docket 49

Tentative Ruling:

Tentative Ruling for 6/29/21:

Apperances required.

(1) Current issues

(a) Chapter 7 Trustee's Motion to sell Laurel Property (dkt. 588, 589, 590), Celtic Bank's response (dkt. 594), Oxygen Funding's response (dkt. 595), East West Bank's response (dkt. 598), Tremblay subordination stipulation and order (dkt. 599, 600), Stipulation and order approving debtor's waiver of homestead exemption (dkt. 603, 605), Trustee's omnibus reply (dkt. 606), supplemental papers (dkt. 611-613), and stipulation with Celtic Bank (dkt. 617)

See below.

(b) Subchapter V Trustee's Motion for turnover of 35th Street Properties, accounting re Jefferson property, etc. (dkt. 543, 544), Debtor's response (dkt. 562), Oxygen's joinder (dkt. 568), Subchapter V Trustee's reply (dkt. 569, 570), Order granting motion (dkt. 578)

See below.

(c) Tremblay's motion for relief from stay (dkt. 504), Order denying in substantial part and granting limited relief (dkt. 559), Tremblay's status report (dkt. 583)

See below.

(d) All pending matters

This Court has reviewed the status reports (dkt. 629, 630) and will

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2:00 PM

CONT...

Liat Talasazan

Chapter 7

address with the parties the current status and future proceedings.

(2) Deadlines/dates. This case was filed on 11/20/19, converted from chapter 13 to chapter 11 on 1/2/20, designated by Debtor as a Subchapter V case on 3/2/20 (dkt.128), and converted to chapter 7 on 12/1/20 (dkt. 412).

(a) Continued status conference: 8/31/21 at 2:00 p.m. *Brief* status report due 8/17/21.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED (see Memorialization of Tentative Rulings, dkt.208 (filed 5/19/20) and dkt.303 (filed 9/21/20). See also Order Denying Motion for Stay (dkt.441, as amended by dkt.442).]

Party Information

Debtor(s):

Liat Talasazan

Represented By
Giovanni Orantes
Luis A Solorzano

Trustee(s):

Caroline Renee Djang (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 1545

9:00 AM

2:00-00000

Chapter

#1.00 ZoomGov Instructions for all matters on today's calendar:

Meeting ID: 160 922 8605

Password: 830765

Meeting URL: <https://cacb.zoomgov.com/j/1609228605>

Telephone: +1 669 254 5252 or +1 646 828 7666 or 833 568 8864 (Toll Free)

Please connect at least 5 minutes before the start of your hearing, and wait with your microphone muted until your matter is called. You do not need to call Chambers for advance approval. ZoomGov appearances are free

Docket 0

Tentative Ruling:

- NONE LISTED -

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Hearing Room 1545

10:00 AM

2:20-18681 Leticia Juarez

Chapter 13

#1.00 Hrg re: Motion for relief from stay [RP]

CREDIT UNION OF SOUTHERN CALIFORNIA
vs
DEBTOR

Docket 33

Tentative Ruling:

Appearances are not required.

Grant as set forth below.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter

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10:00 AM

CONT... Leticia Juarez

Chapter 13

by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Leticia Juarez

Represented By
Jonathan Hidalgo

Movant(s):

Credit Union of Southern California

Represented By
Arnold L Graff

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Tuesday, July 6, 2021

Hearing Room 1545

10:00 AM

2:21-14544 Alma Judith Montiel

Chapter 7

#2.00 Hrg re: Motion for relief from stay [PP]

AMERICAN HONDA FINANCE CORP
vs
DEBTOR

Docket 8

Tentative Ruling:

Appearances are not required.

Grant as set forth below.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the

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CONT... Alma Judith Montiel

Chapter 7

first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Alma Judith Montiel

Represented By
Eliza Ghanooni

Movant(s):

AMERICAN HONDA FINANCE

Represented By
Vincent V Frounjian

Trustee(s):

Rosendo Gonzalez (TR)

Pro Se

**United States Bankruptcy Court
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Tuesday, July 6, 2021

Hearing Room 1545

10:00 AM

2:20-16346 Andres Dorado

Chapter 7

#3.00 Hrg re: Motion for relief from stay [NA]

LOURDES M. GALINDO
vs
DEBTOR

Docket 18

Tentative Ruling:

Appearances are not required.

Grant in part and deny in part as set forth below.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Key documents reviewed (in addition to motion papers): No opposition is on file

The automatic stay does not apply

The tentative ruling is that, (a) to the extent Movant seeks relief from the automatic stay, that relief is moot because the automatic stay does not apply, and to that limited extent the motion must be denied; but (b) in the alternative, in the event that this Court were incorrect on that issue, the tentative ruling is to grant relief from whatever stay applied, based on the *Curtis/Plumberex* factors (cited in the motion).

Specifically, the automatic stay previously terminated (i) as to Debtor's *in personam* liability on 10/19/20 upon the granting of Debtor's discharge (11 U.S.C. 362(c)(2)(C)) and was replaced by the discharge injunction (11 U.S.C. 524(a)), and (ii) as to any property of the estate when the case was closed on 10/20/20 (11 U.S.C. 362(c)(1)). Nor is this Court aware of any authority that reopening this bankruptcy case operates automatically to reimpose the automatic stay. Accordingly, no stay applies, and Movant is permitted to

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CONT...

Andres Dorado

Chapter 7

proceed in the nonbankruptcy forum to final judgment (including any appeals) and enforce its final judgment by collecting upon any available insurance, all in accordance with applicable nonbankruptcy law.

Alternatively, it is standard to grant the type of limited relief requested in the motion, to pursue insurance, under the *Curtis/Plumberex* factors. That is particularly appropriate in a chapter 7 case that has been closed. No party in interest has argued otherwise.

Caveat: Nothing in the foregoing tentative ruling should be interpreted as modifying the usual limitations that any creditor pursuing *in rem* recoveries (e.g., from insurance) must be careful not to give the impression to a debtor who has received a discharge that the creditor is pursuing *in personam* liability against Debtor personally, in violation of the discharge injunction. See, e.g., *In re Marino*, 577 B.R. 772, 783 (9th Cir. BAP 2017), *partially overruled on other issues by Taggart v. Lorenzen*, 139 S.Ct. 1795 (2019).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Andres Dorado

Represented By
Aidan Butler

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 6, 2021

Hearing Room 1545

10:00 AM

CONT... Andres Dorado

Chapter 7

Movant(s):

Lourdes M Galindo

Represented By
Lior Katz

Trustee(s):

Heide Kurtz (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 6, 2021

Hearing Room 1545

10:00 AM

2:18-17384 Howard Anthony Hines

Chapter 13

#4.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 6/1/21

FEDERAL HOME LOAN MORTGAGE CORP
VS
DEBTOR

Docket 42

*** VACATED *** REASON: Voluntary dismissal of motion filed on
06/07/21 (dkt. 44)

Tentative Ruling:

Party Information

Debtor(s):

Howard Anthony Hines

Represented By
Scott Kosner

Movant(s):

Federal Home Loan Mortgage

Represented By
Arnold L Graff
Josephine E Salmon
Dane W Exnowski

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 6, 2021

Hearing Room 1545

10:00 AM

2:19-19773 Jose Armando Jimenez and Martha Laura Arreola De

Chapter 13

#5.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 6/1/21

SELECT PORTFOLIO SERVICING INC.
VS
DEBTOR

Docket 27

Tentative Ruling:

**Tentative Ruling for 7/6/21:
Appearances required.**

At the 6/1/21 hearing, this Court was persuaded to continue the matter to this date to allow the parties an opportunity to agree to the terms of an adequate protection agreement. See *also* Debtors' Reponse (dkt. 29). As of the date this tentative ruling was prepared, no stipulation and/or proposed adequate protection order has been filed with this Court. There is no tentative ruling, but the parties should be prepared to address whether (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, July 6, 2021

Hearing Room 1545

10:00 AM

CONT... Jose Armando Jimenez and Martha Laura Arreola De

Chapter 13

Tentative Ruling for 6/1/21:

Appearances are not required.

Grant as set forth below.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a) (3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, July 6, 2021

Hearing Room 1545

10:00 AM

CONT... Jose Armando Jimenez and Martha Laura Arreola De

Chapter 13

Debtor(s):

Jose Armando Jimenez

Represented By
Lauren M Foley

Joint Debtor(s):

Martha Laura Arreola De Jimenez

Represented By
Lauren M Foley

Movant(s):

Select Portfolio Servicing Inc. as

Represented By
Josephine E Salmon

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 6, 2021

Hearing Room 1545

10:00 AM

2:20-10379 Kevin Robert Rheault

Chapter 13

#6.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 6/1/21

WELLS FARGO BANK, NA
VS
DEBTOR

Docket 37

***** VACATED *** REASON: APO**

Tentative Ruling:

Party Information

Debtor(s):

Kevin Robert Rheault

Represented By
John Asuncion

Movant(s):

Wells Fargo Bank, N.A.

Represented By
Sean C Ferry
Eric P Enciso

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 6, 2021

Hearing Room 1545

10:00 AM

2:20-20829 Gregory Steven Velarde and Ginalynn Velarde

Chapter 13

#7.00 Cont'd hrg re: Motion for relief from stay [PP]
fr. 06/01/21

EXETER FINANCE LLC
VS
DEBTOR

Docket 39

***** VACATED *** REASON: APO**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Gregory Steven Velarde

Represented By
D Justin Harelik

Joint Debtor(s):

Ginalynn Velarde

Represented By
D Justin Harelik

Movant(s):

Exeter Finance LLC

Represented By
Sheryl K Ith

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 6, 2021

Hearing Room 1545

11:00 AM

2:21-10360 Maureen C. Redmond

Chapter 7

#1.00 Hrg re: Motion to Avoid Lien Property Lien
with Sulphur Mountain Land And Livestock Co., LLC

Docket 39

***** VACATED *** REASON: This matter is scheduled to be heard on
07/20/21 at 11:00 a.m. per parties' stipulation (dkt. 47)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Maureen C. Redmond

Represented By
Raymond H. Aver

Trustee(s):

Carolyn A Dye (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 6, 2021

Hearing Room 1545

11:00 AM

2:20-18631 Cristobal Cuauhtemoc Murillo Valdez

Chapter 13

Adv#: 2:21-01002 Kass v. Murillo Valdez

#2.00 Cont'd status conference re: Complaint to determine nondischargeability of debt (sections 523); and objection to discharge (section 727) fr. 3/9/21, 6/1/21

Docket 1

Tentative Ruling:

Revised Tentative Ruling for 7/6/21:

Continue to 8/31/21 at 11:00 a.m. in view of the parties' status report (adv. dkt. 15). Appearances are not required on 7/6/21.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 7/6/21:

Appearances required.

(A) Current issues

(1) Mediation

This Court continued the 6/1/21 status conference on this matter based on the parties' representation that the ordered mediation would take place on 6/11/21. As of the date this tentative ruling was prepared, no further status update regarding the mediation has been filed with this Court. There is no tentative ruling, but the parties should be prepared to address the status

**United States Bankruptcy Court
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11:00 AM

CONT... Cristobal Cuauhtemoc Murillo Valdez
and/or outcome of the mediation.

Chapter 13

(B) Standard requirements

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority

[Resolved: no issues raised at prior status conferences, and see Status Report (adv.dkt.6)]

(2) Mediation

[See above.]

(3) Deadlines

This adversary proceeding has been pending since 1/7/21.

Joinder of parties/amendment of pleadings-deadline: TBD

Discovery cutoff (for completion of discovery): TBD

Expert(s) - deadline for reports: N/A

Expert(s) - discovery cutoff (if different from above): N/A

Dispositive motions to be heard no later than: TBD

Joint Status Report: TBD

Continued status conference: 8/3/21 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers, including direct testimony by declaration unless excused: TBD (for the format of exhibits and other trial procedures, please see the Procedures of Judge Bason (posted at www.cacb.uscourts.gov) then search for "Trial Practice" BUT, at least during the COVID-19 shut down of the courtroom, also see the forms of order regarding video trials, posted on Judge Bason's portion of the Court's above-referenced web page)

Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, July 6, 2021

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11:00 AM

CONT... **Cristobal Cuauhtemoc Murillo Valdez**

Chapter 13

required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 6/1/21:

Continue as set forth below, based on the parties' report that they are scheduled for mediation on 6/11/21. Appearances are not required on 6/1/21.

(A) Current issues

N/A

(B) Standard requirements

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority

[Resolved: no issues raised at prior status conferences, and see Status Report (adv.dkt.6)]

(2) Mediation

[See above.]

(3) Deadlines

This adversary proceeding has been pending since 1/7/21.

Joinder of parties/amendment of pleadings-deadline: TBD

Discovery cutoff (for completion of discovery): TBD

Expert(s) - deadline for reports: N/A

Expert(s) - discovery cutoff (if different from above): N/A

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, July 6, 2021

Hearing Room 1545

11:00 AM

CONT...

Cristobal Cuauhtemoc Murillo Valdez

Chapter 13

Dispositive motions to be heard no later than: TBD

Joint Status Report: TBD

Continued status conference: 7/6/21 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers, including direct testimony by declaration unless excused: TBD (for the format of exhibits and other trial procedures, please see the Procedures of Judge Bason (posted at www.cacb.uscourts.gov) then search for "Trial Practice" BUT, at least during the COVID-19 shut down of the courtroom, also see the forms of order regarding video trials, posted on Judge Bason's portion of the Court's above-referenced web page)

Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 3/9/21:

Appearances required.

(A) Current issues

This Court has reviewed the parties' joint status report (adv.dkt. 6) and the other filed documents and records in this adversary proceeding and is not aware of any issues to raise *sua sponte* at this time.

(B) Standard requirements

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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11:00 AM

CONT... Cristobal Cuauhtemoc Murillo Valdez

Chapter 13

issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority

The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this Bankruptcy Court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. *See generally Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). *See generally In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation

In the parties' joint status report (adv. dkt. 6), the parties have both indicated that they would like this matter sent to mediation. The tentative ruling is to set a **deadline of 3/23/21** for the parties to lodge a proposed mediation order (the parties are directed to use the time between now and that deadline to find a mutually agreeable mediator whose schedule can accommodate the needs of this matter; and if the parties cannot even agree on a mediator they may lodge separate orders and Judge Bason will chose among them, or issue his own order).

(3) Deadlines

This adversary proceeding has been pending since 1/7/21. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Joinder of parties/amendment of pleadings-deadline: 9/7/21

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Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, July 6, 2021

Hearing Room 1545

11:00 AM

CONT...

Cristobal Cuauhtemoc Murillo Valdez

Chapter 13

Discovery cutoff (for completion of discovery): 9/21/21

Expert(s) - deadline for reports: N/A

Expert(s) - discovery cutoff (if different from above): N/A

Dispositive motions to be heard no later than: 11/9/21

Joint Status Report: 5/18/21

Continued status conference: 6/1/21 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers, including direct testimony by declaration unless excused: TBD (for the format of exhibits and other trial procedures, please see the Procedures of Judge Bason (posted at www.cacb.uscourts.gov) then search for "Trial Practice" BUT, at least during the COVID-19 shut down of the courtroom, also see the forms of order regarding video trials, posted on Judge Bason's portion of the Court's above-referenced web page)

Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Cristobal Cuauhtemoc Murillo

Represented By

Marc A Goldbach

**United States Bankruptcy Court
Central District of California
Los Angeles
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Hearing Room 1545

11:00 AM

CONT... Cristobal Cuauhtemoc Murillo Valdez

Chapter 13

Defendant(s):

Cristobal Cuauhtemoc Murillo Pro Se

Plaintiff(s):

Martin J Kass
Represented By
Dennis Kass
David Riera Ruiz

Trustee(s):

Kathy A Dockery (TR) Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, July 6, 2021

Hearing Room 1545

1:00 PM

2:21-10956 LAX In-Flite Services, LLC

Chapter 11

Adv#: 2:21-01079 Gonzales et al v. LAX In-Flite Services, LLC

- #1.00 Status conference re: Complaint for determination that debt is nondischargeable (11 U.S.C. sections 523(a)(6); 523(a)(7))

Docket 1

Tentative Ruling:

Revised Tentative Ruling gor 7/6/21:

Continue to 8/31/21 at 1:00 p.m. per stipulation (adv. dkt. 6) and order thereon. Appearances are not required on 7/6/21.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 7/6/21:

Appearances required.

(1) Current issues

(a) Background

No Answer is on file. Nor are there any motions to dismiss or other pleadings on file.

That said, the tentative ruling is that the lack of response is not dispositive because the docket in this adversary proceeding does not reflect proper service of the summons, Complaint, etc. on Debtor to the attention of

**United States Bankruptcy Court
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Tuesday, July 6, 2021

Hearing Room 1545

1:00 PM

CONT... LAX In-Flite Services, LLC

Chapter 11

an officer, a managing or general agent, or to any other agent authorized by appointment of law (Rule 7004(b)(3), Fed. R. Bankr. P.), at an address that appears to be reasonably calculated to reach the officer (e.g., corporate headquarters). Note: Judge Bason does not require that a specific individual be named -- "Attn: Officer or Managing/General Agent" is sufficient.

(b) The Complaint fails to state a claim for relief under section 523(a)

The tentative ruling is to dismiss the Complaint on this Court's own motion, under Rule 12(b)(6) (Fed. R. Civ. P.) (incorporated by Rule 7012, Fed. R. Bankr. P.), for failure to state a claim for relief. The two claims asserted in the Complaint (dkt.1, 3) are brought under 11 U.S.C. 523(a)(6) or (a)(7); but section 523(a), by its express language, only applies to **individual** debtors and not **corporate** debtors such as LAX In-Flight Services, LLC. See *In re Gordon's Music & Sound, Inc.*, 2012 Bankr. LEXIS 6133, at *2, 2012 WL 8250009, at *1-2 (Bankr. E.D. Cal. Oct. 12, 2012) (dismissing 523(a)(6) claim against corporate debtor and reasoning that "Congress clearly did not intend the term 'corporate debtor' to be used interchangeably with the term 'individual debtor'" (internal quotations and citations omitted); see also *Omar v. Sea-Land Serv. Inc.*, 813 F.2d 986, 991 (9th Cir. 1987) (citing *Wong v. Bell*, 642 F.2d 359, 361-62 (9th Cir. 1981) ("A trial court may dismiss a claim sua sponte under Fed. R. Civ. P. 12(b)(6) ... [s]uch dismissal may be made without notice where the claimant cannot possibly win relief").

The tentative ruling is to dismiss with leave to amend, because the factual allegations in the Complaint, and its assertions about asserted violations of nonbankruptcy law, might be the basis to assert a cognizable claim. The tentative ruling is (i) to set a deadline of 7/20/21 for Plaintiffs to file a first amended complaint ("FAC") and serve their summons, FAC, etc. on Defendant/Debtor; and to set a continued status conference for 8/17/21 at 1:00 p.m., with a joint status report on this Court's Local Form due 8/3/21.

In addition, the parties are directed to address how to this matter can best be handled efficiently. For example, is mandatory mediation appropriate?

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

**United States Bankruptcy Court
Central District of California
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Hearing Room 1545

1:00 PM

CONT... LAX In-Flite Services, LLC

Chapter 11

are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

LAX In-Flite Services, LLC

Represented By
Jeremy H Rothstein

Defendant(s):

LAX In-Flite Services, LLC

Pro Se

Plaintiff(s):

Ruth Gonzales

Represented By
Moises S Bardavid

Andres Braubert

Represented By
Moises S Bardavid

Guillermo Gutierrez

Represented By
Moises S Bardavid

Trustee(s):

John-Patrick McGinnis Fritz (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Tuesday, July 6, 2021

Hearing Room 1545

1:00 PM

2:21-10956 LAX In-Flite Services, LLC

Chapter 11

#2.00 Cont'd Status Conference re: Chapter 11 Case
fr. 02/25/21, 03/02/21, 4/6/21, 4/27/21, 5/11/21,
5/19/21, 5/26/21, 6/15/21, 6/29/21

Docket 1

Tentative Ruling:

Revised Tentative Ruling for 7/6/21:

Appearances are not required; on 7/6/21. This Status Conference is continued to 7/20/21 at 1:00 p.m., as previously ordered.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 7/6/21:

Appearances required; but the tentative ruling is to continue this Status Conference to 7/20/21 at 1:00 p.m.

Reasons: At a hearing on 6/29/21 this Court ordered the continuance of this Status Conference to 7/20/21 at 1:00 p.m. Nevertheless, pursuant to this Court's procedural order issued at the start of this case (dkt.3, timely served, dkt.9), a Status Conference will also be held contemporaneous with any other matters on calendar (in case there are issues that are best addressed at a Status Conference instead of any other matter on calendar). This Court is not aware of any such issues, so the tentative ruling is simply to

**United States Bankruptcy Court
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Tuesday, July 6, 2021

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1:00 PM

CONT... LAX In-Flite Services, LLC

Chapter 11

continue this Status Conference as previously ordered.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

LAX In-Flite Services, LLC

Represented By
Jeremy H Rothstein

Trustee(s):

John-Patrick McGinnis Fritz (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, July 6, 2021

Hearing Room 1545

2:00 PM

2:16-21559 David MacMillan

Chapter 7

#1.00 Hrg re: Motion for allowance and payment
of administrative expense claim pursuant to
11 U.S.C. sections 503(B)(3)(D) and (B)(4)

Docket 548

Tentative Ruling:

Please see the tentative ruling for the Trustee's Compromise Motion
(Calendar No. 2, 7/6/21 at 2:00 p.m.).

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr
Christian T Kim

Peter J Mastan (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 6, 2021

Hearing Room 1545

2:00 PM

2:16-21559 David MacMillan

Chapter 7

#2.00 Hrg re: Motion for order approving compromise with Wyndham Vacation, Resorts, Inc.

Docket 550

Tentative Ruling:

Appearances are not required on 7/6/21

(1) Terminology

This Court's terminology has been memorialized (MacCase, dkt. 485).

(2) Current issues

(a) Trustee's motion to approve compromise with Wyndham (MacCase, dkt. 550, 551, the "Settlement Motion"), no opposition on file

The tentative ruling is to grant the Settlement Motion.

(b) Trustee's claim objections (MacCase, dkt. 522; AttitudeCase dkt. 191)

The tentative ruling is to deny the Trustee's claim objections as moot in view of the tentative approval of the Settlement Motion.

Proposed orders: Trustee is directed to lodge proposed orders on items "(2)(a)" & "(2)(b)" above via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(c) Wyndham's motion for administrative expense claim (MacCase dkt. 548, the "Administrative Claim Motion"), no opposition on file

The tentative ruling is to grant the Administrative Claim Motion for the reasons stated therein. In addition, the tentative ruling is that, in this instance only, this Court is prepared to not require service on all parties or the submission of evidence establishing that Wyndham actually incurred \$50,000 in expenses (e.g., a declaration from Mr. Eliades with time records), but only because (i) all interested parties received notice of the Settlement Motion (dkt. 552), which contemplates the granting of the relief requested in this

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motion as a condition of the settlement (see dkt. 550, p.12:13-16), (ii) no party in interest has objected, and (iii) this Court takes judicial notice of the docket in the MacCase, and the numerous hearings before this Court, all of which establish that Wyndham has incurred significant expense for services that provided a substantial contribution to the case and led to the discovery of assets that has increased the distribution to creditors.

Proposed order: Wyndham is directed to lodge a proposed order via LOU within 7 days after the hearing date and attach a copy of this tentative ruling, thereby adopting it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

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#3.00 Cont'd hrg re: Trustee's Objection to Amended
Claim of Wyndham Vacation Resorts, Inc.
fr 3/23/21, 4/6/21, 4/27/21, 5/11/21, 6/15/21

Docket 522

Tentative Ruling:

Tentative Ruling for 7/6/21:

Please see the tentative ruling for the Trustee's Compromise Motion
(Calendar No. 2, 7/6/21 at 2:00 p.m.).

Tentative Ruling for 5/11/21:

Appearances required.

(1) Current issues

(a) Trustee's claim objections (MacCase, dkt. 522; AttitudeCase dkt.
191)

There is no tentative ruling. The parties should be prepared to update
this Court on the status of any settlement negotiations.

If appearances are not required at the start of this tentative ruling but you
wish to dispute the tentative ruling, or for further explanation of "appearances
required/are not required," please see Judge Bason's Procedures (posted at
www.cacb.uscourts.gov) then search for "tentative rulings." If appearances
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permitted.

Tentative Ruling for 4/6/21:

Appearances required.

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(1) Current issues

The tentative ruling is (a) to sustain the Trustee's objections to Wyndham's Claims, without leave for Wyndham to renew its claims for liquidated damages, but (b) to refrain from issuing any order memorializing that ruling, so that this Court can direct the parties to mandatory mediation in an attempt to avoid the expense and delay of any appeals or other proceedings. This Court will address at the continued status conference (see below) when to use and enter any order(s) implementing this tentative ruling.

(a) Terminology

This Court's terminology is as previously memorialized (MacCase, dkt.485).

(b) Key documents reviewed

Wyndham's Proof of Claim 3-4 filed in the MacCase (the "Wyndham-Mac Claim") and Wyndham's Proof of Claim 1-2 filed in the AttitudeCase (the "Wyndham-Attitude Claim," and together, the "Claims"); 2015 Settlement Agreement (MacCase dkt. 516, Ex. H, at PDF pp. 151 *et seq.*); 2020 Settlement Agreement (MacCase dkt. 512, Ex. A); Motion to approve settlement (MacCase dkt. 512); Trustee's limited objection to settlement (MacCase dkt. 515); Reply re settlement (MacCase dkt. 516; AttitudeCase dkt. 191); Order approving settlement subject to Trustee's right to object to claim (MacCase dkt. 518); Trustee's Claim objection (MacCase dkt. 522; AttitudeCase dkt. 191); Wyndham's Response (MacCase dkt. 528; AttitudeCase, dkt. 196), MacMillan declaration in support of Wyndham's Response (MacCase dkt. 530; AttitudeCase, dkt. 197), Stipulations and orders extending filing deadlines (MacCase, dkt. 532, 533, 535, 536; AttitudeCase, dkt. 198, 199, 201, 202), Trustee's reply (MacCase, dkt. 538; AttitudeCase, dkt. 204), Trustee's declaration in support of reply (MacCase dkt. 539; AttitudeCase, dkt. 205), Trustee's request for judicial notice (MacCase dkt. 540; AttitudeCase, dkt. 206)

(c) Legal standards for objections to claim.

Under the statute, a proof of claim is "deemed allowed" unless an objection is made, and if such an objection is made then the court "shall" allow such claim "except to the extent that" it is unenforceable under the

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agreement itself or applicable law (or other, inapplicable grounds). 11 U.S.C. 502(a) & (b). In other words, the burden is on the objecting party to provide a cognizable ground to disallow the claim.

(i) There must be some factual or legal basis to disallow the claim, not just an alleged non-compliance with Rule 3001

Pursuant to Rule 3001(f) a proof of claim must be "executed and filed in accordance with these rules" in order to automatically "constitute *prima facie* evidence of the validity and amount of the claim." But a rule cannot supersede a statute, and an objecting party must do more than simply point to a lack of compliance with Rule 3001 in order to obtain an order disallowing a claim: the objecting party must establish an actual basis to contest the liability or amount of the claim. See *In re Campbell*, 336 B.R. 430 (9th Cir. BAP 2005); *In re Heath*, 331 B.R. 424 (9th Cir. BAP 2005). See also *Travelers Cas. & Sur. Co. of Am. v. Pac. Gas & Elec. Co.*, 549 U.S. 443, 449, 127 S. Ct. 1199, 167 L. Ed. 2d 178 (2007) ("the court 'shall allow' the claim 'except to the extent that' the claim implicates any of the nine exceptions enumerated in [section] 502(b)").

(ii) Non-compliance with Rule 3001 only means that the "usual burdens of proof" apply

If a proof of claim does not comply with Rule 3001(f) then it does not automatically constitute *prima facie* evidence of the "validity and amount" of the claim and "the usual burdens of proof associated with claims litigation apply." *Campbell*, 336 B.R. 430, 436 (emphasis added). But the proof of claim can still be *prima facie* evidence of the claim's validity and amount if the evidence attached to the proof of claim is "sufficient to support the claim." In that situation the objecting party "must produce evidence tending to defeat the claim that is of probative force equal to that of the creditors' proof of claim." *In re Consolidated Pioneer Mortgage*, 178 B.R. 222, 226 (9th Cir. BAP 1995) (citations and internal quotation marks omitted).

(b) The Claims are not entitled to *prima facie* validity as against the Trustee under Rule 3001(f)

On 12/16/20, Wyndham filed the amended Claims (which appear in all respects to be identical) asserting general unsecured claims against the MacMillan and Attitude estates in the amount of \$25,000,000. Although it is

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not clear from a review of the documents filed in support of the Claims, it appears the Claims are comprised of (w) damages arising out of the Debtors' alleged failures to transfer timeshares to Wyndham and pay an agreed-upon \$375 per unit transferred as well as unpaid maintenance fees, (x) attorneys' fees, (y) interest, and (z) liquidated damages arising from alleged breaches of a 2015 Settlement Agreement (the "2015 Settlement Agreement") executed in connection with pre-petition litigation in the Middle District of Tennessee captioned *Wyndham Vacation Resorts, Inc. et al. v. Property Relief, LLC, et al.*, Case No. 3:13-cv-434 (the "WVR Lawsuit") (MacCase dkt. 516, Ex. H, at PDF pp. 151 *et seq.*).

In support of the Claims, Wyndham relies on a four-page summary of the history of its bankruptcy litigation with MacMillan and Cynthia Martin which concluded with the execution of a new settlement agreement (the "2020 Settlement Agreement") (MacCase dkt. 512-1, Ex. A), as well as this Court's order approving that agreement and the related nondischargeability judgment (none of which is attached, but all of which have been reviewed by this Court). But, as the Trustee highlights, the Claims are not supported by the 2015 Settlement Agreement or any kind of summary explaining the various components of the Claims or how Wyndham arrived at the \$25,000,000 figure (MacCase dkt. 522, pp.1:28-2:4 & 17:23-19:4 & AttitudeCase dkt. 191, p.2:1-5 & 18:7-20:25).

As against Debtors themselves, Wyndham's Claims might be entitled to *prima facie* validity because Debtors were *parties* to the underlying 2020 Settlement Agreement. But as against the Trustee, there is insufficient information to determine the components of the claim including anything about how the settling parties arrived at \$10,000 for liquidated damages.

Therefore, the tentative ruling is that the Claims lack sufficient information to give them *prima facie* validity under Rule 3001(c)(1) & (f) (Fed. R. Bankr. P.). See *e.g.*, *In re Heath*, 331 B.R. at 433 (claim can be based on summary rather than complete documentation but, among other things, "if the claim includes charges such as interest, late fees and attorney's fees, the summary should include a statement giving a breakdown of those elements").

Alternatively, even if the Claims had *prima facie* validity under Rule 3001(f) (which they do not), that would not change the outcome. The Trustee has rebutted any such initial showing by Wyndham, thereby shifting the burden to Wyndham. Wyndham has not carried that burden, for the reasons set forth below.

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(c) Wyndham has not carried its initial burden of proof

The Trustee objects to the Claims on the grounds that the lion's share of the \$25,000,000 figure is premised on an unenforceable liquidated damages provision in the 2015 Settlement Agreement under applicable law (*i.e.*, that the Claims must be disallowed under 11 U.S.C. 502(b)(1)) (MacCase dkt. 522, pp.14:14-17:21 & AttitudeCase dkt. 191, pp.15:1-18:5).

(i) Tennessee law applies

Neither party has briefed whether this Court should apply Tennessee or California law. But the tentative ruling is that Tennessee law applies pursuant to paragraph 13 of the 2015 Settlement Agreement, which states in relevant part: "[s]hould any question arise as to the construction or interpretation of this Agreement, this Agreement shall be construed and interpreted according to the laws of the State of Tennessee ..." (see 2:17-ap-01229-NB, dkt. 80, p.14, para. "(13)") (emphasis added).

Under Tennessee law, "the term 'liquidated damages' 'refers to an amount determined by the parties to be just compensation for damages,' should a contract breach occur." *Guesthouse Int'l Franchise Sys., Inc., v. British Am. Props. MacArthur Inn, LLC*, 2009 U.S. Dist. LEXIS 8570, at *30-31, 2009 WL 278214, at *9-10 (M.D. Tenn. 2009) (quoting *Vanderbilt Univ. v. DiNardo*, 174 F.3d 751, 755 (6th Cir. 1999)). "The fundamental purpose of a liquidated damages provision is to provide a means of compensation in the event of a breach where damages would be indeterminable or otherwise difficult to prove." *Id.* (citing *Guiliano v. Cleo, Inc.*, 995 S.W.2d 88, 98 (Tenn. 1999)). "Tennessee courts 'have long recognized the freedom of parties to agree upon terms that may not appear desirable to outsiders and the duty of the courts to refrain from interfering with the parties' agreement unless to enforce it would violate established public policy.'" *Id.* (quoting *Anesthesia Med. Group v. Chandler*, 2007 Tenn. App. LEXIS 73, 2007 WL 412323, at *9 (Tenn. Ct. App. Feb. 6, 2007)).

Tennessee courts "will uphold a liquidated damages provision if 'the liquidated damages specified were a **reasonable prediction** of what a breach would cost the injured party in light of circumstances at the time the contract was formed.'" *Id.* (quoting *U.S. v. Ponnappula*, 246 F.3d 576, 584 (6th Cir. 2001)) (emphasis added). "Therefore, 'the amount of actual damages at the time of breach is of little or no relevance to whether the clause is an

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impermissible penalty." *Id.* "Courts will not, however, enforce a liquidated damages provision 'if the stipulated amount constitutes a penalty.'" *Id.* (quoting *Vanderbilt Univ.*, 174 F.3d at 755). "A penalty is 'designed to coerce performance by punishing default.'" *Id.* "Any doubt as to the character of a contract provision 'will be resolved in favor of finding it a penalty.'" *Id.*

(ii) Wyndham has the burden to establish that the liquidated sum was a reasonable prediction of damages

The parties also have not briefed which of them bears the burden of establishing the enforceability of the liquidated damages provision and, based on this Court's own research, it appears Tennessee Courts are split on the issue. This Court has found at least three Tennessee Court of Appeals decisions that placed the burden on the party seeking to enforce a liquidated damages clause to establish that the liquidated sum was a reasonable prediction of damages. See *Patterson v. Anderson Motor Co.*, 45 Tenn. App. 35, 55-56 (1958) ("it is at least conceivable that had defendants elected to put on proof, they might have established as a fact that \$2,000 was a reasonable sum to be allowed as liquidated damages ..."), *Eatherly Construction Co. v. HTI Memorial Hospital*, 2005 Tenn. App. LEXIS 575, at *28, 2005 WL 2217078, at *9 (Tenn. Ct. App. Sept. 12, 2005) (citing *Guiliano v. Cleo, Inc.*, 995 S.W.2d 88, 100-101 (Tenn. 1999)) ("In the trial court, [the party seeking to enforce the liquidated damages provision] had the burden to establish that the liquidated sum was a reasonable estimate of potential damages"); *Bachour v. Mason*, 2013 Tenn. App. LEXIS 366, at *12-13, 2013 WL 2395027, at *5 (Tenn. Ct. App. May 30, 2013) ("It thus appears to us that the \$75,000 was not based on any estimate of potential damages, but was just an arbitrary figure that Buyer plucked from thin air. There is no evidence to support his contention that the figure bears any relation to the potential damages he would likely have suffered ...").

And other courts have agreed that "any doubt as to the character of the [liquidated damages] provision will be resolved in favor of finding it a penalty." *DiNardo, supra* (citing *Beasley v. Horrell*, 864 S.W.2d 45, 48 (Tenn. Ct. App. 1993), *overruled on other grounds by Guiliano, supra*); see also *Goggin Truck Line Co. v. Brake Pro, Inc.* 2000 Tenn. App. LEXIS 563, at *10, 2000 WL 1183058, at *3 (Tenn. Ct. App. Aug. 22, 2000) (same).

But some courts have held that a challenge to the enforceability of a liquidated damages provision is an affirmative defense which places the

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burden on the party seeking to avoid the clause to prove that it is a penalty. *See e.g. Shelbyville Hosp. Corp. v. Mosley*, 2017 U.S. Dist. LEXIS 191466, at *44, 2017 WL 5586729, at *14 (E.D. Tenn. Nov. 20, 2017) (citing *Anesthesia Med. Grp., P.C. v. Buras*, 2006 Tenn. App. LEXIS 618, at *8, 2006 WL 2737829, at *3 (Tenn. Ct. App. Sept. 25, 2006)) (issue of enforceability of liquidated damages provision was held to be an affirmative defense).

In the absence of clear authority on the issue, the tentative ruling is that the better reasoned decisions put the burden on the party seeking to enforce a liquidated damages provision because that party is in the best position to establish that its liquidated damages provision was intended to be a reasonable prediction of damages and not to serve as a penalty.

(A) Wyndham has not established that the liquidated sum was a reasonable prediction of damages

In its opposition papers Wyndham argues that its Claims are well supported and that its evidence clearly establishes the enforceability of the liquidated damages provision. But, as discussed below, the tentative ruling is that Wyndham has not presented any evidence establishing that the \$10,000 liquidated damages figure was a reasonable prediction of damages. In addition, Wyndham has not sufficiently established the basis for any multiplier that would transform \$10,000 per breach of the 2015 Settlement Agreement into \$25 million of damages.

As noted above, the 2015 Settlement Agreement is not attached in support of the Claims and nothing in the 2015 Settlement Agreement explains how the parties arrived at the \$10,000 liquidated damages figure. The best evidence Wyndham offers to support its contention that \$10,000 was a reasonable measure of its compensatory damages is that the parties agreed to that amount.

Wyndham highlights that paragraphs 4(c), 4(d), 4(e) and 4(f) of the 2015 Settlement Agreement provide for \$10,000 in liquidated damages for each separate breach and violation and that the agreement specifically states: "[t]he parties agree that the liquidated damages provision is necessary and appropriate due to the difficulty in quantifying the degree of losses, damages or harm posed by a violation of this provision with any mathematical certainty." MacCase dkt. 528, pp.20:25-26:9 & AttitudeCase dkt. 196, pp.20:25-26:9. But the tentative ruling is that this evidence, on its own, is not enough to satisfy Wyndham's burden. *See e.g. Eatherly Construction Co. v.*

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HTI Memorial Hospital, 2005 Tenn. App. LEXIS 575, at *27-28, 2005 WL 2217078, at *9 (Tenn. Ct. App. Sept. 12, 2005) ("While the fact the parties 'agreed' to the amount is relevant, and it is a factor to be considered in order to determine whether the amount was a reasonable estimate at the time the parties entered into the contract, that evidence – the parties' agreement – standing alone does not preponderate against the trial court's specific finding to the contrary").

For the same reasons the tentative ruling is also that Wyndham's 2020 Settlement Agreement with MacMillan and Martin is insufficient. In addition and alternatively, the tentative ruling is that such evidence carries little to no evidentiary weight for the reasons articulated by the Trustee in the claim objections (MacCase dkt. 522, pp.5:26-8:22 & AttitudeCase, dkt. 191, pp.6:5-8:26).

Wyndham also offers the declarations of its vice president, Michael Lazinsk, and David MacMillan in support of its opposition papers. But, as the Trustee highlights, Mr. Lazinski has not established that he has personal knowledge to testify about the subject matter in his declaration (MacCase, dkt. 538, p.9:5-27) and neither declaration offers anything more than legal conclusions regarding the reasonableness of the \$10,000 liquidated damages figure. MacCase, dkt. 528 at PDF p.91, para. "(6)", dkt. 530, p.3, para. "(4)" & AttitudeCase dkt. 196 at PDF p.91, para. "(6)" & dkt. 197, p.3, para. "(4)". Neither of the parties to the settlement testifies to any facts that show how the parties arrived at the \$10,000 figure or how that figure was a reasonable prediction of damages.

There is no testimony from Mr. Lazinsk that, for example, relying on past experience Wyndham calculated that each breach of the 2015 Settlement Agreement would result in an average of X months of non-payment to Wyndham of \$Y in time share fees per month when one of its unit owners utilized MacMillan's services to transfer their timeshare interests to a so-called "Viking ship" entity, plus \$Z of attorney fees or other damages per breach, all adding up to a "reasonable prediction" of \$10,000 per breach of the 2015 Settlement Agreement. On its face, \$10,000 of damages from every single time Debtors or their affiliates "solicit, contact or communicate with any Wyndham owners" regarding possible transfer of their timeshare interest appears to be an unbelievably high dollar amount. See 2015 Settlement Agreement, ¶ 4(c) (MacCase dkt. 516, Ex. H, at PDF pp. 151 *et seq.*).

This Court notes that Wyndham attempts to justify its \$25,000,000

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claim by highlighting that MacMillan previously testified that he successfully orchestrated the transfer of over 100,000 timeshare interests and generated fees estimated at more than \$300,000,000. MacCase, dkt. 528, p.4, Fn.6, AttitudeCase, dkt. 196, p.4, Fn.6. But Wyndham's reliance on these figures is misplaced. Wyndham is improperly attempting to conflate the potential damages MacMillan's actions might have inflicted on consumers with Wyndham's own damages. Standing alone, these figures are meaningless because Wyndham does not include evidence tying those figures to its own damages.

Wyndham does not offer evidence establishing that, for example, but for MacMillan's interference, unit owners would have paid all of that money to Wyndham. Nor does Wyndham account for the fact that many of the alleged 100,000 timeshare interests about which MacMillan bragged were with timeshare businesses other than Wyndham.

Finally, Wyndham argues that a District Court's findings issued in connection with a default judgment Wyndham obtained against TimeShare Relief, Inc. in a different action (Cal. Dist. Ct. case no. 2:18-cv-09036-CJC-AFM) are preclusive on the Trustee's ability to challenge the enforceability of the liquidated damages provision. But Wyndham does not cite to any authority for that proposition. Among other things, Wyndham presumably would have to establish privity between the defendant in that action (TimeShare Relief) and the Trustee or the individual creditors of the MacMillan and Attitude estates, and this Court is not aware of any basis to find such privity, particularly when the Trustee apparently was not served with critical papers and was not on notice of any intent by Wyndham to use the default judgment in that case as a basis for preventing any challenge to its claim in this bankruptcy case.

For all of these reasons, the tentative ruling is that Wyndham has not carried its burden.

(B) Even if the Trustee bears the initial burden of proving that the liquidated damages provision is an unenforceable penalty, he has carried that burden

Alternatively, even if the Trustee bears the initial burden to prove that the liquidated damages provision is an unenforceable penalty, the tentative ruling is that he has satisfied that burden. This Court notes the difficulty for any party in having to prove a negative and in doing so parties often rely

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exclusively on circumstantial arguments and evidence to carry their burden. In this case, the Trustee highlights that Wyndham's own proofs of claim have grown exponentially over time and there is nothing in the 2015 Settlement Agreement or any evidence filed in support of the Claims explaining how the parties arrived at the \$10,000 liquidated damages figure. The Trustee further highlights several facts and circumstances that call into question the reasonableness of that figure. MacCase, dkt. 522, pp.14:14-17:21 & AttitudeCase, dkt. 191, pp.15:1-18:5.

The tentative ruling is that this is sufficient to cast grave doubt about whether the \$10,000 liquidated damages provision was simply a figure pulled from thin air and/or intended to punish parties for any future breaches. See *Beasley*, 864 S.W.2d at 48 ("when there is doubt whether a provision is intended to be liquidated damages or a penalty, the court must construe it as a penalty"). The tentative ruling is that the burden then shifted back to Wyndham to prove that it was not intended to be a penalty and, for the reasons set forth above, Wyndham has not carried that burden.

Therefore, the tentative ruling is to sustain the Trustee's objections and disallow damages arising from the liquidated damages provision without leave to amend.

(C) Wyndham has not carried its burden as to the other possible components of the Claims

As noted above, it is not clear from a review of the documents filed in support of the Claims whether Wyndham also seeks to recover (i) damages arising out of the Debtors' alleged failures to transfer timeshares to Wyndham and to pay the agreed-upon \$375 per unit transferred along with unpaid maintenance fees, (ii) attorneys' fees, and (iii) interest. Wyndham's opposition papers do little to clarify these ambiguities. But, because the Trustee does not appear to object to allowance of these categories in some dollar amount but does object to the lack of evidence establishing what that amount should be (MacCase dkt. 522, pp.19:6-20:11 & AttitudeCase, dkt. 191, pp.19:17-20:24), the tentative ruling is to order the parties to mandatory mediation to address these unresolved issues and to discuss the possibility of a global resolution of the Claim Objections.

Proposed order: The Trustee is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling,

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thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 3/22/21: [Note: subsequent to this tentative ruling being posted, the matter was continued per the parties' stipulation and the order thereon. See dkt. 536.]
Appearances required.

This Court is intentionally withholding a tentative ruling so as to not disrupt any possible settlement discussions but is prepared to give a comprehensive oral ruling, or a supplemental written tentative ruling, if the parties have not resolved their disputes by the start of the hearing.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

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CONT... David MacMillan

Chapter 7

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altgen
Lamont R Richardson

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr
Christian T Kim

Peter J Mastan (TR)

Pro Se

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2:19-10552 Attitude Marketing, Inc.

Chapter 7

#4.00 Cont'd hrg re: Trustee's Objection to Amended
Claim of Wyndham Vacation Resorts, Inc.
fr 3/23/21, 4/6/21, 4/27/21, 5/11/21, 6/15/21

Docket 191

Tentative Ruling:

Tentative Ruling for 7/6/21:

Please see the tentative ruling for the Trustee's Compromise Motion in the MacMillan/Martin bankruptcy case (Calendar No. 2, 7/6/21 at 2:00 p.m.).

Tentative Ruling for 5/11/21:

Please see the tentative ruling for the same claim objection in the MacMillan/Martin bankruptcy case (Calendar No. 1, 5/11/21 at 2:00 p.m.).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Attitude Marketing, Inc.

Represented By
James A Dumas Jr
Christian T Kim

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
Christian T Kim
James A Dumas Jr

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2:21-12517 Law Offices of Brian D. Witzer

Chapter 11

Adv#: 2:21-01084 Law Offices of Brian D. Witzer, Inc. v. Pravati Credit Fund III, LLP

#5.00 Hrg re: Defendant Pravati Credit Fund III LP's Motion to
Dismiss Adversary Proceeding

Docket 6

Tentative Ruling:

Please see the tentative ruling for the Status Conference in this bankruptcy case (Calendar No. 8, 7/6/21 at 2:00 p.m.).

Party Information

Debtor(s):

Law Offices of Brian D. Witzer

Represented By
Michael Jay Berger

Defendant(s):

Pravati Credit Fund III, LLP

Represented By
Cameron H Totten

Plaintiff(s):

Law Offices of Brian D. Witzer, Inc.

Represented By
Michael Jay Berger

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2:21-12517 Law Offices of Brian D. Witzer

Chapter 11

Adv#: 2:21-01084 Law Offices of Brian D. Witzer, Inc. v. Pravati Credit Fund III, LLP

- #6.00** Status conference re: Complaint for (1) Injunctive relief (11 U.S.C. section 105(a)); (2) For violation of the automatic stay (11 U.S.C. section 362(a)); (3) Avoidance of preference [11 U.S.C. section 547]; (4) Recovery of avoided transfer [11 U.S.C. section 550(a)]; and (5) Automatic preservation of avoided transfer [11 U.S.C. section 551]

Docket 2

Tentative Ruling:

Appearances required.

(A) Current Issues

(1) Motion to Dismiss ("MTD") filed by Defendant Pravati Credit Fund III, LLP ("Pravati") (adv. dkt. 6), Pravati's Request for Judicial Notice (adv. dkt. 7), Plaintiff/Debtor's Opposition (adv. dkt. 10), Pravati's Reply (adv. dkt. 11)

Please see the tentative ruling for the Status Conference in this bankruptcy case (Calendar No. 8, 7/6/21 at 2:00 p.m.).

(B) Standard requirements

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority

The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this Bankruptcy Court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. See generally *Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and

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voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). See generally *In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation

Is there is any reason why this Court should not order the parties to mediation before one of the volunteer mediators (*not* a Bankruptcy Judge), and meanwhile set the deadlines set forth below? The tentative ruling is to set a **deadline of 7/20/21** for the parties to lodge a proposed mediation order (the parties are directed to use the time between now and that deadline to find a mutually agreeable mediator whose schedule can accommodate the needs of this matter; and if the parties cannot even agree on a mediator they may lodge separate orders and Judge Bason will chose among them, or issue his own order).

(3) Deadlines

This adversary proceeding has been pending since 5/10/21. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Joinder of parties/amendment of pleadings-deadline: TBD

Discovery cutoff (for completion of discovery): TBD

Expert(s) - deadline for reports: TBD

Expert(s) - discovery cutoff (if different from above): TBD

Dispositive motions to be heard no later than: TBD

Joint Status Report: 8/3/21.

Continued status conference: 8/17/21 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers, including direct testimony by declaration unless excused: TBD (for the format of exhibits and other trial procedures, please see the Procedures of Judge Bason (posted at

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www.cacb.uscourts.gov) then search for "Trial Practice" BUT, at least during the COVID-19 shut down of the courtroom, also see the forms of order regarding video trials, posted on Judge Bason's portion of the Court's above-referenced web page)

Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Law Offices of Brian D. Witzer

Represented By
Michael Jay Berger

Defendant(s):

Pravati Credit Fund III, LLP

Pro Se

Plaintiff(s):

Law Offices of Brian D. Witzer, Inc.

Represented By
Michael Jay Berger

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2:21-12517 Law Offices of Brian D. Witzer

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#7.00 Hrg re: Debtor's Motion for turnover of estate
property Under 11 U.S.C. sections 542 and 543

Docket 119

Tentative Ruling:

Please see the tentative ruling for the Status Conference in this bankruptcy
case (Calendar No. 8, 7/6/21 at 2:00 p.m.).

Party Information

Debtor(s):

Law Offices of Brian D. Witzer

Represented By
Michael Jay Berger

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2:21-12517 Law Offices of Brian D. Witzer

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#8.00 Cont'd Status Conference re: Chapter 11 Case
fr. 3/31/21, 4/27/21, 5/11/21, 6/15/21, 6/29/21

Docket 1

Tentative Ruling:

Revised Tentative Ruling for 7/6/21:

Appearances required.

(1) Current issues

(a) Motion to Dismiss ("MTD") filed by Defendant Pravati Credit Fund III, LLP ("Pravati") (adv. dkt. 6) in Adv. No. 2:21-ap-01084-NB, Pravati's Request for Judicial Notice (adv. dkt. 7), Plaintiff/Debtor's Opposition (adv. dkt. 10), Pravati's Reply (adv. dkt. 11), Status Report (adv.dkt.12)

The MTD relates to Plaintiff/Debtor's First Amended Complaint ("FAC," Adv. No. 2:21-ap-01084-NB, adv.dkt. 2), which in broad terms seeks two forms of relief: enforcing the automatic stay and injunctive relief. The tentative ruling is to deny the MTD for the following reasons.

(i) Legal standards

The MTD seeks dismissal under Rule 12(b)(6) (Fed. R. Civ. P.), incorporated by Rule 7012 (Fed. R. Bankr. P.). Under that rule, this Court must accept all factual allegations as true, provided that the complaint contains "sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (internal quotation marks omitted) (citing *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007)); *Moss v. U.S. Secret Serv.*, 572 F.3d 962, 969 (9th Cir. 2009).

Determining whether a claim for relief is plausible is "a context-specific task that requires the reviewing court to draw on its judicial experience and common sense." *Iqbal*, 556 U.S. 662, 679. This Court must consider not only the complaint itself, but also any documents incorporated into the complaint and matters of which a court may take judicial notice. *Tellabs, Inc. v. Makor Issues & Rights, Ltd.*, 551 U.S. 308, 322 (2007); *United States v. Ritchie*, 342 F.3d 903, 907-08 (9th Cir. 2003); *Estate of Blue v. Cty. Of L.A.*,

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120 F.3d 982, 984 (9th Cir. 1997). *Compare Khoja v. Orexigen Therapeutics, Inc.*, 899 F.3d 988, 999 (9th Cir. 2018) (court "cannot take judicial notice of disputed facts" contained in public records).

(ii) Automatic stay

Pravati asserts that it has not violated the automatic stay (11 U.S.C. 362(a)) because it "only pursued its judgment against non-debtor [Mr.] Witzer." MTD (adv.dkt.6), p.3:8 (emphasis added). That is flatly contradicted by the allegations in the FAC, which this Court must accept as true for purposes of this MTD.

For example, the FAC alleges that Pravati's counsel Mr. Chora took acts to collect Pravati's judgment from the proceeds of the *Rodriguez* litigation that is "held by" Debtor (not Mr. Witzer). See FAC, p. 3:19-22. In other words, Pravati attempted to enforce its judgment against Debtor's (not Mr. Witzer's) account receivable.

Pravati's attempt to enforce its judgment against Debtor's property appears to violate almost every subsection of the automatic stay of 11 U.S.C. 362(a). The automatic stay bars the "enforcement, against the debtor or against property of the estate, of a judgment obtained before the commencement of the [bankruptcy case]" (11 U.S.C. 362(a)(2)), as well as "any act to obtain possession of property of the estate or of property from the estate or to exercise control over property of the estate (11 U.S.C. 362(a)(3)), as well as "any act to create, perfect, or enforce any lien against property of the estate" (11 U.S.C. 362(a)(4)), as well as "any act to create, perfect, or enforce against property of the debtor any lien to the extent that such lien secures a claim that arose before the commencement of the [bankruptcy case]" (11 U.S.C. 362(a)(5)), as well as "any act to collect, assess, or recover a claim against the debtor that arose before the commencement of the [bankruptcy case]" (11 U.S.C. 362(a)(6)).

Pravati's apparent interpretation of the statute is that the automatic stay does not apply because Pravati purportedly intended to pursue only Mr. Witzer, not Debtor. That is not the law, and it would make a mockery of the automatic stay. See *generally In re Taggart*, 139 S.Ct. 1795 (2019) (subjective good faith is not a defense to violation of statutory injunction).

The foregoing is enough by itself to deny the MTD with respect to the FAC's claims for violation of the automatic stay. But there is more.

The FAC alleges, and attaches evidence, that Pravati itself knew that

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its acts would have a negative effect on the value of Debtor's property. Its attorney, Mr. Chora, wrote that he knew that his course of action - informing opposing counsel in the *Rodriguez* litigation about Debtor's bankruptcy - would result in the "weakening" of Debtor's "case in *Rodriguez*," and used that as an apparent postpetition threat in attempting to enforce its judgment. FAC, p. 7:1-15 & Ex.D (at PDF p.31). This, again, appears to violate almost every subsection of the automatic stay.

(iii) Injunctive relief

The tentative ruling is that if there were any doubt that the automatic stay applies (which, so far as this Court can tell from the present record, there is not), that is all the more reason why Debtor must have the opportunity to prove that injunctive relief is warranted. Pravati has failed to establish that Debtor's claim for injunctive relief lacks plausibility.

Starting with the legal principles, it is well established that this Court can grant injunctive relief under 11 U.S.C. 105(a), including protection of third parties such as Mr. Witzer, to prevent interference with the reorganization process. See *In re Canter*, 299 F.3d 1150, 1155 (9th Cir. 2002) ("Section 105(a) contemplates injunctive relief in precisely those instances where parties are pursuing actions pending in other courts that threaten the integrity of a bankrupt's estate") (internal quotation marks and citations omitted); *In re Family Health Servs.*, 105 B.R. 937, 943-45 (Bankr. C.D. Cal. 1989), *vacated on other grounds*, *In re Family Health Servs.*, 130 B.R. 314 (9th Cir. BAP 1991).

The standard for such relief have been set forth by the Court of Appeals for the Ninth Circuit as follows:

[The] usual preliminary injunction standard applies to applications to stay actions against non-debtors under § 105(a). In granting or denying such an injunction, a bankruptcy court must consider [1] whether the debtor has a reasonable likelihood of a successful reorganization, [2] the relative hardship of the parties, and [3] any public interest concerns if relevant. [*In re Excel Innovations, Inc.*, 502 F.3d 1086, 1096 (9th Cir. 2007).]

Debtor would not necessarily need to prevail on all of these elements at an evidentiary hearing. Applying the usual sliding scale for a preliminary injunction, Debtor could show either a combination of a reasonable likelihood of a successful reorganization and the possibility of irreparable injury or "that

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serious questions are raised and the balance of hardships tips sharply in [Debtor's] favor." *Id.* at 1093 (citation and internal quotation marks omitted).

Applying these legal standards to the facts alleged in the FAC, it seems not only plausible that Debtor could obtain at least some injunctive relief, it seems likely. First, to the extent that Debtor seeks to enjoin Pravati from seizing Debtor's own judgments and settlement proceeds, Pravati has not presented any evidence that it can unscramble the eggs: it cannot pursue any (indirect) interest that Mr. Witzer might have in the proceeds of Debtor's litigation without interfering with Debtor's own (direct) interest in that litigation (as an account receivable).

Second, and alternatively, even if Pravati could pursue Mr. Witzer alone (e.g., garnishing his wages or his draw from Debtor), Debtor might be able to prove that depriving Mr. Witzer of the fruits of his labors would seriously risk dooming any attempt by Debtor to reorganize. Not only is that alleged in the FAC (as Plaintiff/Debtor points out), but it is obvious on its face that depriving an attorney of the fruits of his labors might cause him to use his energies elsewhere and that might be catastrophic for this bankruptcy estate.

Of course, Debtor has not yet proven that these things are so - in future Debtor will have to present its evidence and satisfy the above-referenced legal standards before it can obtain any actual relief, and this Court might or might not actually grant any such relief. But in assessing the MTD the issue is not whether Debtor has already proven those things but whether it is "plausible" that Debtor could prove those things. Debtor easily meets that standard.

(iv) Purported free speech rights

The tentative ruling is that Pravati's assertion of First Amendment rights is unpersuasive. First, the FAC mostly alleges acts that do not have a speech component, so at best Pravati's defense would apply only to a portion of the FAC. For example, the FAC alleges that Pravati, in furtherance of its collection efforts, filed a Writ of Execution postpetition that lists Debtor (not just Mr. Witzer) as the judgment debtor against whom execution is being sought. See FAC (adv.dkt.2), p.9:12-15 & Ex.E (at PDF p.33). Pravati has not shown how any "free speech" is impinged by staying or enjoining such acts.

Second, even when the FAC focuses on communication - as with Mr. Chora's alleged communication with other counsel in the *Rodriguez* matter -

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that appears to be a verbal act, and akin to the types of "speech" that have been held not to be protected - *e.g.*, harassing debt collection. For example, one of the cases on which Pravati relies notes that it no undue impingement on free speech to prohibit debt collectors from engaging in harassing conduct because:

(1) the speech [of bill collectors] is not highly protected; (2) the speech is "speech-plus," that is, it involves action beyond speech; and (3) countervailing interests, such as an individual's right to privacy, are involved. [Citing authority, *inter alia*, "allowing prohibition of speech amounting to conduct."]
* * *

Moreover, aside from these considerations, § 362 also involves protection of the judicial process itself. All bankruptcy statutes are designed to protect our economic system. ... Pure, otherwise protected speech could in appropriate circumstances result in a contempt finding because of this countervailing interest in protecting the judicial system. [*In re Stonegate Security Svcs., Ltd.*, 56 B.R. 1014, 1018-19 (N.D. Ill. 1986) (citations omitted).]

True, *Stonegate* also held that,

in the absence of some language presenting a clear and present danger of some significant interference with the debtor's reorganization, or with the functions of the bankruptcy court, § 362 cannot prohibit public criticism. [*Id.* at 1020]

But arguably that is precisely what Pravati did. *Stonegate* involved a truck *passively* parked outside of the debtor's business, with painted messages *to the world* about debtor's failure to pay debts, and a lack of any findings about any *substantial effect* on the debtor's business or any *intent* by the creditor to violate the bankruptcy laws or collect a prepetition debt. *Id.* at 1016 & 1020 n.3. In contrast, according to the FAC, this case involves an *active* intrusion by Pravati into a *specific* hearing in *Rodriguez*, and similarly active verbal acts and attempts by Pravati to collect from other personal injury cases on which *Debtor's income relies*, with the stated *intent* of enforcing a prepetition judgment, notwithstanding Debtor's bankruptcy case. See, *e.g.*, FAC (adv. dkt. 2) pp. 7:7-12 and 8:21-23, and Ex. D at PDF p. 31.

In similar circumstances, posting a sign directing third parties to pay a creditor rather than a debtor was held not to be protected by the First Amendment. Rather, it was nothing more than "an attempt to collect a pre-

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petition debt to the detriment of the other unsecured creditors and in circumvention of the Debtor's legitimate effort to reorganize his financial affairs under the protection of this Court," in violation of the automatic stay. See *In re Collier*, 410 B.R. 464, 474-75 (Bankr. E.D. Tex. 2009) (distinguishing *Stonegate*). See also *In re Andrus*, 184 B.R. 311, 315 (Bankr. N.D. Ill. 1995) (same) ("When the intent of a sign displayed by a creditor is to coerce and harass the discharged debtor into paying the discharged debt, the sign is not protected speech") (citation omitted); *In re Sechuan City, Inc.*, 96 B.R. 37, 42-44 (Bankr. E.D. Pa. 1989). See generally, e.g., *Clark v. Community for Creative Non-Violence*, 468 U.S. 288, 293 (1984) ("Expression, whether oral or written or symbolized by conduct, is subject to reasonable time, place, or manner restrictions.") (citations omitted).

In sum, Pravati has not established that the First Amendment offers it any protection.

(iv) Conclusion as to MTD and this adversary proceeding

The tentative ruling is to deny the MTD in full. In addition, the tentative ruling is to stay this adversary proceeding temporarily, while directing the parties to a global mandatory mediation (as set forth below).

Proposed order: Plaintiff/Debtor is directed to lodge a proposed order via LOU within 7 days after the hearing date and attach a copy of part "(1)(a)" of this tentative ruling, thereby adopting it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

(b) Debtor's Motion for Turnover of Estate Property (dkt. 119), Opposition of Pravati Credit Fund III LP ("Pravati") (dkt. 127), Debtor's Reply (dkt. 129)

The tentative ruling is that this Court cannot reach the merits of Debtor's turnover demand due to lack of proper service on all parties entitled thereto, and because an adversary is required. Nevertheless, the tentative ruling is that it is appropriate to address with the parties some larger issues about how to resolve the turnover issues.

(i) Lack of service on Debtor's clients

Debtor asserts that its clients need not receive notice because their

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share of the escrowed funds is fixed pursuant to the retainer agreement. The tentative ruling is that this is insufficient, both because this Court can conceive of situations in which Debtor's clients might object and alternatively because Debtor's clients might object on grounds this Court has not conceived of.

For example, Debtor's clients, if they had notice of these proceedings, might assert that the 33 and 1/3% contingency fee should apply instead of the 40% contingency fee, or that Debtor's claimed expenses are excessive, or that the deduction for medical liens includes interest that would not have accrued but for unreasonable delays by Debtor or Pravati and that one of them should pay that interest charge; or any number of other objections. Therefore, the tentative ruling is that they must be served with any papers initiating any turnover proceedings. That leads to the next question: what proceedings are required.

(ii) Does section 542 or 543 apply?

The tentative ruling is that the Clerk of the Superior Court appears to be a custodian, so 11 U.S.C. 543 would apply and would require that Clerk to "deliver to the trustee any property of the debtor" 11 U.S.C. 543(b)(1). A "custodian" includes any "agent" appointed under applicable law "to take charge of property of the debtor for the purpose of enforcing a lien against such property" 11 U.S.C. 101(11)(C).

Alternatively, if section 543 did not apply for some reason then it appears that 11 U.S.C. 542 would apply, because it provides for the turnover of estate property by "an entity, other than a custodian, in possession, custody, or control, during the case, of property that the trustee may use, sell, or lease under section 363 of this title." 11 U.S.C. 542(a). The Bankruptcy Code defines the term "entity" as including any "governmental unit" and any "individual" or other "person" (11 U.S.C. 101(15) & (41)) so, regardless whether the Clerk of the Kern County Superior Court is acting as an arm of the Superior Court or independently, it appears that section 542 applies if section 543 does not.

In other words, the tentative ruling is that either section 542 or 543 governs. The tentative ruling is that it does not matter which because, either way, the following analysis appears to apply.

(iii) Adversary proceeding

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Under Rule 7001(1) (Fed. R. Bankr. P.), a "proceeding to recover money or property" is an adversary proceeding (with inapplicable exceptions) that must be initiated with a summons and complaint. The tentative ruling is that Pravati is correct that a proceeding under 11 U.S.C. 542 or 543 comes within Rule 7001(1). *Cf. In re American Ambulance Service, Inc.*, 46 B.R. 658, 659 (Bankr. S.D. Cal. 1985) (treating motion for turnover as adversary proceeding in absence of objection by parties in interest).

The tentative ruling is that this Court cannot reach the merits of Debtor's demand for turnover in these circumstances, but that it is appropriate to address some broader jurisdictional and practical issues. Those are discussed below.

(iv) Abstention/relief from the automatic stay

This Court must consider jurisdictional issues, and can raise both mandatory and permissive abstention *sua sponte*. See 28 U.S.C. 1334(c)(2) (mandatory abstention) and (c)(1) (permissive abstention). See also 11 U.S.C. 105(a) and *In re Meruelo Maddux Props.*, 2013 Bankr. LEXIS 4672 at *20-*21 (9th Cir. BAP Apr. 15, 2013) (court "has the power to permissively abstain from hearing any matter, *sua sponte*." (citation omitted)).

It appears that mandatory abstention might apply, because the interpleader action was commenced prepetition and appears to be a non-core proceeding that can be timely adjudicated in the Superior Court. Alternatively, it appears that permissive abstention might apply based on the traditional considerations (set forth below) and in particular because of the Superior Court's familiarity with the underlying dispute, the fact that it appears to be well along in its process of resolving that dispute, and the fact that it appears to have the necessary parties before it, including Debtor's own clients, who are not presently before this Court.

A non-exclusive list of common considerations includes the following:

- (1) the effect or lack thereof on the efficient administration of the estate if a Court recommends abstention,
- (2) the extent to which state law issues predominate over bankruptcy issues,
- (3) the difficulty or unsettled nature of the applicable law,
- (4) the presence of a related proceeding commenced in state court or other nonbankruptcy court,
- (5) the jurisdictional basis, if any, other than 28 U.S.C. Section

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1334,

- (6) the degree of relatedness or remoteness of the proceeding to the main bankruptcy case,
- (7) the substance rather than form of an asserted core proceeding,
- (8) the feasibility of severing state law claims from core bankruptcy matters to allow judgments to be entered in state court with enforcement left to the bankruptcy court,
- (9) the burden of the bankruptcy court's docket,
- (10) the likelihood that the commencement of the proceeding in bankruptcy court involves forum shopping by one of the parties,
- (11) the existence of a right to a jury trial, and
- (12) the presence in the proceeding of nondebtor parties. [*In re Azam*, 2015 Bankr. LEXIS 1581 at *25–*26 (9th Cir. BAP May 8, 2015) (citing *In re Tucson Estates, Inc.*, 912 F.2d 1162, 1167 (9th Cir. 1990)).]

Hand in hand with any consideration of abstention, it is typical to address whether to modify the automatic stay so that any non-bankruptcy litigation may proceed. The typical approach, embodied in the Local Form of order on such motions for relief from the automatic stay, is (A) to modify the stay to enable litigation as to who has what interests in the interpled funds, but not to permit any enforcement of any judgment against any property of the estate, for example, and (B) to assure that any determinations of non-bankruptcy rights and entitlements are subject to any superseding bankruptcy laws, such as any avoidance of Pravati's judgment lien as a preference under 11 U.S.C. 547.

For example, the State Courts could determine that, after the attorney fees owed to the party who did the interpleading, Debtor's clients own the dollar amounts set forth in Debtor's evidence (dkt. 129, Ex.4) and, as between Debtor and its clients, Debtor owns the rest (*id.*), but as between Debtor and Pravati, the latter has or does not have a consensual lien or a judgment lien and, under nonbankruptcy law, should receive 100% or 50% or some other fraction of Debtor's share. Then the parties presumably would return to this Bankruptcy Court to determine whether any aspect of bankruptcy law changes the outcome, such as avoidance of Pravati's judgment lien as a preference.

On the other hand, perhaps all of the foregoing is putting the cart before the horse, meaning that perhaps the turnover action and preference

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Central District of California
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Tuesday, July 6, 2021

Hearing Room 1545

2:00 PM

CONT... **Law Offices of Brian D. Witzer**

Chapter 11

action and any other bankruptcy litigation should be resolved before determining whether to grant relief from the automatic stay. Among other things, this Court does not wish to burden the Superior Court with contentious and complex litigation over issues that might be mooted if Pravati ends up with no security interest and only a nonpriority unsecured claim to funds that must be turned over and that the bankruptcy estate can use for the benefit of all creditors and parties in interest (not just Pravati).

The tentative ruling is that all of these issues can be addressed either (A) in future proceedings regarding turnover, or avoidance of the alleged preference, or other proceedings in this Court, or else (B) in mediation. Accordingly, this Court does not anticipate delving into these issues at this time, but encourages the parties to think about these issues, which might be addressed in future proceedings.

(v) Conclusion as to turnover issues

The tentative ruling is to deny Debtor's turnover motion for the reasons set forth in parts "(1)(b)(i)" and "(iii)" of the foregoing tentative ruling, without prejudice to bringing the same claims as part of an adversary proceeding.

Proposed order: Debtor is directed to lodge a proposed order on the foregoing motion via LOU within 7 days after the hearing date and attach a copy of part "(1)(b)" of this tentative ruling, thereby adopting it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

(c) Sanctions

Plaintiff/Debtor has raised the issue of possible sanctions against Pravati for violations of the automatic stay. Potentially there are enormous sums at issue, and the tentative ruling is that the issue of sanctions must be included in the mandatory mediation because the parties might be unable to reach any sort of resolution while leaving this matter open. (The opposite also could be true, and nothing in this tentative ruling should be construed to dissuade the parties and the mediator from "carving out" the sanctions issues and resolving some or all other issues, if that is the most feasible approach. The only point is that it appears that, initially at least, the scope of the mediation should not exclude the sanctions issues because they are such a potentially large dollar amount of the parties' disputes, depending on what

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Chapter 11

damages Debtor might be able to prove.)

To assure a level playing field, this Court encourages both parties to review the "Sanctions Table" posted on this Court's website, under Judge Bason's "Instructions/Procedures" (at www.cacb.uscourts.gov). See also *Taggart*, 139 S.Ct. 1795 (applying "traditional principles" of civil contempt, sanctions are warranted if there is no "objectively reasonable" ground of doubt as to whether creditor's conduct was barred) (citations omitted); and *In re Goodman*, 991 F.2d 613, 620-21 (9th Cir. 1993) (non-individual's violation of automatic stay subject to sanctions as "ordinary civil contempt," noting that this encourages "would be violators" to obtain "declaratory judgments" rather than imposing on debtors' estates "potentially unnecessary legal expenses in prosecuting stay violations") (citations and internal quotation marks omitted).

(d) Mandatory mediation

This Court is concerned that all of the foregoing disputes have the potential to result in expensive and lengthy litigation, and might also harm third parties (such as Debtor's clients, some of whom apparently have been waiting a long time already for their recoveries). The tentative ruling is to direct the parties to mandatory mediation, combined with the mandatory mediation in the adversary proceeding. The parties are directed to address whether some or all of Debtor's clients in the underlying litigation can, and should, be included.

(2) Dates/procedures. This case was filed on 3/29/21.

- (a) Bar date: 7/6/21.
 - (b) Procedures order: dkt. 4 (service cured, see dkt. 8, 82)
 - (c) Plan/Disclosure Statement: TBD
 - (d) Continued status conference: 7/27/21 at 1:00 p.m., concurrent with other matters. No written status report required.
- *Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter

**United States Bankruptcy Court
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CONT... Law Offices of Brian D. Witzer

Chapter 11

by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 7/6/21:

This Court anticipates posting a tentative ruling on 7/6/21, prior to the hearing.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Law Offices of Brian D. Witzer

Represented By
Michael Jay Berger

**United States Bankruptcy Court
Central District of California
Los Angeles
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Thursday, July 8, 2021

Hearing Room 1545

12:00 PM
2:00-00000

Chapter

#1.00 ZoomGov Instructions for all matters on today's calendar:

Meeting ID: 161 056 9573

Password: 653582

Meeting URL: <https://cacb.zoomgov.com/j/1610569573>

Telephone: +1 669 254 5252 or +1 646 828 7666 or 833 568 8864 (Toll Free)

Please connect at least 5 minutes before the start of your hearing, and wait with your microphone muted until your matter is called. You do not need to call Chambers for advance approval. ZoomGov appearances are free

Docket 0

Tentative Ruling:

- NONE LISTED -

**United States Bankruptcy Court
Central District of California
Los Angeles
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Thursday, July 8, 2021

Hearing Room 1545

1:00 PM

2:18-12429 Dana Hollister

Chapter 11

#1.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 10/1/19, 11/12/19, 11/21/19, 01/14/20, 03/03/20,
04/07/20, 5/19/20, 7/14/20, 7/28/20, 8/4/20, 9/15/20,
10/27/20, 01/26/21, 4/27/21, 6/1/21

BOBS, LLC
vs
DEBTOR

Docket 936

Tentative Ruling:

Tentative Ruling for 7/8/21:

Please see the tentative ruling for the status conference (Calendar No. 2, 7/8/21 at 1:00 p.m.).

Tentative Ruling for 6/1/21:

Please see the tentative ruling for the status conference (Calendar No. 3, 6/1/21 at 2:00 p.m.).

[INTERIM TENTATIVE RULINGS OMITTED]

Tentative Ruling for 10/1/19:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (1) a proposed timeline, and sequence, for discovery and court proceedings regarding the value of the Paramour and whether Bobs, LLC's second loan is secured or unsecured, and (2) whether this Court should set an evidentiary hearing regarding the value of the Paramour, or whether other procedures are appropriate, such as using a third party appraiser, selected jointly by the parties' own appraisers, who would be either appointed as this Court's own expert witness to assist this Court in assessing the parties' appraisals and testimony of their appraisers, or, alternatively, whose determination would be binding. See Motion (dkt.936), Opposition

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CONT... Dana Hollister

Chapter 11

papers (dkt.948, 949, 950, 951, 952), and Reply papers (dkt.958, 959).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Dana Hollister

Represented By
David A Tilem
Mark A Kressel
Alan M Insul

Movant(s):

Bobs, LLC

Represented By
David I Brownstein
Gerrick Warrington

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1:00 PM

2:18-12429 Dana Hollister

Chapter 11

#2.00 Cont'd Status Conference re: Chapter 11 Case
fr. 3/9/18, 3/20/18, 3/21/18, 4/17/18, 5/3/18, 5/7/18,
6/12/18, 6/22/18, 7/16/18, 8/3/18, 9/4/18, 11/6/18,
01/15/19, 1/29/19, 2/26/19, 3/26/19, 4/16/19;
04/29/19, 05/21/19, 5/28/19, 6/18/19, 7/2/19; 08/06/19,
10/15/19, 11/12/19, 11/21/19, 01/14/20, 3/3/20, 3/10/20,
04/07/20, 5/19/20, 6/16/20, 6/30/20, 7/14/20, 7/28/20,
8/4/20, 09/15/20, 10/27/20, 12/08/20, 1/21/21, 02/25/21,
3/23/21, 4/27/21, 6/1/21, 6/15/21

Docket 1

Tentative Ruling:

Tentative Ruling for 7/8/21:

Appearances required only as to items "(1)(a)" and "(1)(c)" below.

(1) Current issues

(a) Application of Dean G. Rallis, Court-appointed Agent ("Agent") to Employ Cushman & Wakefield as Real Estate Appraiser ("Cushman App.," dkt. 1437), Application for Order Setting Hearing on Shortened Notice (dkt. 1438), Order Setting Hearing on Shortened Notice ("OST," dkt. 1439), Notice re same (dkt.1442), Decl. re service (dkt.1443)

As set forth in the OST, the tentative ruling is to grant the Cushman App., subject to any opposition raised at the hearing.

(b) Motion of Bobs LLC ("Bobs") For Relief From The Automatic Stay ("R/S Motion," dkt. 936), Prior Responses by various parties in interest (dkt. 948-952), Bobs' Prior Reply (dkt. 958, 959), Joinder in Prior Response (dkt. 1005), Bobs' Supplement (dkt. 1413), Supp. Response of Dean G. Rallis, Jr., Court Appointed Agent ("Agent") (dkt. 1415), Agent's Evidentiary Objections (dkt. 1416), Supp. Joinder of The Bird Nest, LLC ("Bird") and the Roman Catholic Archbishop of Los Angeles and the California Institute of the Sisters of the Most Holy and Immaculate Heart of the Blessed Virgin Mary (collectively, "Church") (dkt. 1417), Scheduling Order (dkt. 1419), Participation request of Church (dkt. 1428), Participation Request of Deanna Stats (dkt.

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CONT... Dana Hollister
1429)

Chapter 11

Appearances are not required on this matter. The docket does not reflect any opposition to the participation requests, and the deadline in the Scheduling Order has passed, so the tentative ruling is to grant the participation requests.

This Court recognizes that (i) Bobs' reply (dkt.958) questions the participants' standing and (ii) this Court has an independent duty to consider standing. But the tentative ruling is that the participants' briefing (dkt.1428) has the better arguments.

Proposed orders: The parties seeking each of the foregoing forms of relief are directed to lodge proposed orders via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(c) Ex parte communication

Judge Bason received an *ex parte* communication regarding the marketing of the Paramour that he intends to address with the parties on the record.

(d) The Bird Nest, LLC et al v. Hollister (Adv. No. 2:18-ap-01203-NB)

Appearances are not required on this matter. This adversary proceeding remains stayed. The tentative ruling is to continue this adversary proceeding status conference to 11/16/21 at 2:00 p.m.

(2) Deadlines/dates. This case was filed on 3/6/18.

(a) Bar date: 8/24/18 (dkt. 367, timely served per dkt. 383)

(b) Plan/Disclosure Statement: TBD. See the **revised** "Procedures of Judge Bason" (available at www.cacb.uscourts.gov) (search for "Chapter 11: Plan").

(c) Continued status conference: 8/18/21 at 9:00 a.m. to be held contemporaneous with the trial on Bobs' R/S Motion. No written status report required. (But Pre-Trial Stipulation is due 8/9/21, and Pre-Trial Briefs and Motions in Limine, if any, are due 8/13/21, per Scheduling Order, dkt.1419).

(d) Limited Notice: A "Core Service List" has been established (see dkt.97, p.3:4-17, dkt.195), as modified by any updates (contact Debtor for latest list).

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1:00 PM

CONT... Dana Hollister

Chapter 11

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED (for principal issues, see dkt. 238, 239, 528, 547, 557, 1330, 1382-83, 1410)]

Party Information

Debtor(s):

Dana Hollister

Represented By
David A Tilem
Mark A Kressel
Alan M Insul

**United States Bankruptcy Court
Central District of California
Los Angeles
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Thursday, July 8, 2021

Hearing Room 1545

1:00 PM

2:18-12429 Dana Hollister

Chapter 11

Adv#: 2:18-01203 The Bird Nest, LLC et al v. Hollister

#3.00 Cont'd Status Conference re: Complaint to Determine
Non-Dischargeability of Debt
fr. 8/14/18, 12/18/18, 6/4/19, 11/26/19, 12/10/19,
6/16/20, 12/08/20, 1/21/21, 6/15/21

Docket 1

Tentative Ruling:

Tentative Ruling for 7/8/21:

Please see the tentative ruling for the Status Conference in the lead
Bankruptcy case (Calendar No. 2, 7/8/21 at 1:00 p.m.). This adversary
proceeding is stayed. See adv.dkt.8, 9.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Dana Hollister

Represented By
David A Tilem

Defendant(s):

Dana Hollister

Pro Se

Plaintiff(s):

The Bird Nest, LLC

Represented By
Howard Steinberg

Roman Catholic Archbishop of Los Angeles

Represented By
Howard Steinberg

The California Institute of the Sisters

Represented By
Howard Steinberg

**United States Bankruptcy Court
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Thursday, July 8, 2021

Hearing Room 1545

1:00 PM

2:18-12429 Dana Hollister

Chapter 11

#4.00 Hrg re: Application by Agent Dean G. Rallis, Jr. to Employ Cushman & Wakefield as Real Estate Appraiser Relating to Property Located at 1923 Micheltorena Street

Docket 1437

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 2, 7/8/21 at 1:00 p.m.).

Party Information

Debtor(s):

Dana Hollister

Represented By
David A Tilem
Mark A Kressel
Alan M Insul

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, July 15, 2021

Hearing Room 1545

8:00 AM

8:18-10969 Luminance Recovery Center, LLC

Chapter 7

Adv#: 8:18-01064 Marshack v. Castanon et al

#1.00 ZoomGov Instructions for all matters on today's calendar:

Meeting ID: 160 466 1992

Password: 294767

Meeting URL: <https://cacb.zoomgov.com/j/1604661992>

Telephone: +1 669 254 5252 or +1 646 828 7666 or 833 568 8864 (Toll Free)

Please connect at least 5 minutes before the start of your hearing, and wait with your microphone muted until your matter is called. You do not need to call Chambers for advance approval. ZoomGov appearances are free

Docket 0

Party Information

Debtor(s):

Luminance Recovery Center, LLC

Represented By
Jeffrey I Golden
Beth Gaschen

Defendant(s):

Michael Edward Castanon

Represented By
Rhonda Walker
Carlos A De La Paz

BeachPointe Investments, Inc.

Represented By
Evan C Borges
Richard Klein

George Bawuah

Represented By
Evan C Borges
Richard Klein

Jerry Bolnick

Represented By
Evan C Borges
Richard Klein

**United States Bankruptcy Court
Central District of California
Los Angeles
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Thursday, July 15, 2021

Hearing Room 1545

8:00 AM

CONT... Luminance Recovery Center, LLC

Chapter 7

Jonathan Blau

Represented By
Evan C Borges

Joseph Bolnick

Represented By
Evan C Borges
Richard Klein

Maria Castanon

Represented By
Carlos A De La Paz

Kenneth Miller

Represented By
Evan C Borges
Richard Klein

Peter Van Petten

Represented By
Evan C Borges
Richard Klein

Raymond Midley

Represented By
Evan C Borges
Richard Klein

Veronica Marfori

Represented By
Evan C Borges
Richard Klein

Plaintiff(s):

Richard A. Marshack

Represented By
Sharon Oh-Kubisch
Robert S Marticello

Trustee(s):

Richard A Marshack (TR)

Represented By
D Edward Hays
David Wood
Kyra E Andrassy
Jeffrey I Golden
Beth Gaschen
Matthew Grimshaw

**United States Bankruptcy Court
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CONT...

Luminance Recovery Center, LLC

Chapter 7

M Douglas Flahaut
Annie Y Stoops
Judith E Marshack
Sharon Oh-Kubisch
Faye C Rasch
Robert S Marticello
Laila Masud

**United States Bankruptcy Court
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Los Angeles
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Thursday, July 15, 2021

Hearing Room 1545

9:00 AM

8:18-10969 Luminance Recovery Center, LLC

Chapter 7

Adv#: 8:18-01064 Marshack v. Castanon et al

#1.00 Mediation hrg

Docket 0

Party Information

Debtor(s):

Luminance Recovery Center, LLC

Represented By
Jeffrey I Golden
Beth Gaschen

Defendant(s):

Michael Edward Castanon

Represented By
Rhonda Walker
Carlos A De La Paz

BeachPointe Investments, Inc.

Represented By
Evan C Borges
Richard Klein

George Bawuah

Represented By
Evan C Borges
Richard Klein

Jerry Bolnick

Represented By
Evan C Borges
Richard Klein

Jonathan Blau

Represented By
Evan C Borges

Joseph Bolnick

Represented By
Evan C Borges
Richard Klein

Maria Castanon

Represented By
Carlos A De La Paz

**United States Bankruptcy Court
Central District of California
Los Angeles
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Thursday, July 15, 2021

Hearing Room 1545

9:00 AM

CONT... Luminance Recovery Center, LLC

Chapter 7

Kenneth Miller

Represented By
Evan C Borges
Richard Klein

Peter Van Petten

Represented By
Evan C Borges
Richard Klein

Raymond Midley

Represented By
Evan C Borges
Richard Klein

Veronica Marfori

Represented By
Evan C Borges
Richard Klein

Plaintiff(s):

Richard A. Marshack

Represented By
Sharon Oh-Kubisch
Robert S Marticello

Trustee(s):

Richard A Marshack (TR)

Represented By
D Edward Hays
David Wood
Kyra E Andrassy
Jeffrey I Golden
Beth Gaschen
Matthew Grimshaw
M Douglas Flahaut
Annie Y Stoops
Judith E Marshack
Sharon Oh-Kubisch
Faye C Rasch
Robert S Marticello
Laila Masud

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, July 20, 2021

Hearing Room 1545

9:00 AM
2:00-00000

Chapter

#1.00 Hearings in Judge Bason's courtroom (1545) are now **simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone.** You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. ZoomGov appearances are free.

ZoomGov Instructions for all matters on today's calendar:

Meeting ID: 161 450 9824

Password: 668360

Meeting URL: <https://cacb.zoomgov.com/j/1614509824>

Telephone: +1 669 254 5252 or +1 646 828 7666 or 833 568 8864 (Toll Free)

Please connect at least 5 minutes before the start of your hearing, and wait with your microphone muted until your matter is called.

CHAPTER 13: Persons needing to contact the Chapter 13 Trustee's attorney, either prior to the hearing or during a recess, can call Kaleen Murphy, Esq. at (213) 996-4433.

Docket 0

Tentative Ruling:

- NONE LISTED -

**United States Bankruptcy Court
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Los Angeles
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Tuesday, July 20, 2021

Hearing Room 1545

10:00 AM

2:19-13045 Pamela Nugal

Chapter 13

#1.00 Hrg re: Motion for relief from stay [RP]

SELECT PORTFOLIO SERVICING, INC.
VS
DEBTOR

Docket 28

***** VACATED *** REASON: Continued to 8/17/21 at 10:00 a.m. pursuant to the parties' stipulation (dkt. 31) and order thereon.**

Tentative Ruling:

Party Information

Debtor(s):

Pamela Nugal

Represented By
Leon D Bayer

Movant(s):

Select Portfolio Servicing, Inc. as

Represented By
Josephine E Salmon

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, July 20, 2021

Hearing Room 1545

10:00 AM

2:20-17225 Jose Manuel Carrillo

Chapter 13

#2.00 Hrg re: Motion for relief from stay [RP]

THE BANK OF NEW YORK MELLON
VS
DEBTOR

Docket 54

***** VACATED *** REASON: APO**

Tentative Ruling:

Party Information

Debtor(s):

Jose Manuel Carrillo

Represented By
Jaime A Cuevas Jr.

Movant(s):

The Bank of New York Mellon,

Represented By
Robert P Zahradka

Trustee(s):

Kathy A Dockery (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, July 20, 2021

Hearing Room 1545

10:00 AM

2:19-11982 Leon W. Watts, III

Chapter 13

#3.00 Hrg re: Motion for relief from stay [PP]

KIA MOTORS FINANCE
vs
DEBTOR

Docket 38

*** VACATED *** REASON: APO

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Leon W. Watts III

Represented By
Julie J Villalobos

Movant(s):

Kia Motors Finance

Represented By
Sheryl K Ith

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, July 20, 2021

Hearing Room 1545

10:00 AM

2:19-20525 Mynor Valerio Masaya and Maura Masaya

Chapter 13

#4.00 Hrg re: Motion for relief from stay [PP]

WELLS FARGO BANK, N.A.
vs
DEBTOR

Docket 34

Tentative Ruling:

Appearances required.

There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 36).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone.** You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

**United States Bankruptcy Court
Central District of California
Los Angeles
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Hearing Room 1545

10:00 AM

CONT... Mynor Valerio Masaya and Maura Masaya

Chapter 13

Debtor(s):

Mynor Valerio Masaya

Represented By
D Justin Harelik

Joint Debtor(s):

Maura Masaya

Represented By
D Justin Harelik

Movant(s):

Wells Fargo Bank, N.A., d/b/a Wells

Represented By
Josephine E Salmon

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 20, 2021

Hearing Room 1545

10:00 AM

2:21-14646 Royal Antiques, Inc

Chapter 7

#5.00 Hrg re: Motion for relief from stay [UD]

PASADENA ANTIQUE CENTER LLC
vs
DEBTOR

Docket 7

Tentative Ruling:

Grant in part and continue in part to 8/3/21 at 10:00 a.m. as set forth below.
Appearances are not required on 7/20/21.

The automatic stay does not apply

This case has been dismissed, which terminates the automatic stay.
See 11 U.S.C. 349(b)(3) & 362(c).

In the alternative and in addition, the tentative ruling is to grant relief from the automatic stay as follows.

Note regarding mootness: Judge Bason's standard tentative ruling is as follows. For three reasons the above tentative ruling that there *is no stay* does not moot requests for relief from whatever stay might apply. First, such *alternative* rulings are appropriate because (i) the very nature of *tentative* rulings is that this Court could be persuaded to depart from any one of them, and (ii) a *final* ruling on any one issue could be reversed on appeal. Second, even if there is currently no stay, that could change - e.g., if there is no stay because of dismissal of this bankruptcy case, such dismissal could be vacated and that might reimpose the stay even if there is a lack of adequate protection, or other grounds why the stay should not apply, and therefore the movant will suffer cognizable harm unless the issues are addressed now (Judge Bason regularly vacates dismissals based on stipulations or other good cause). Third, if the motion includes any request for relief as to *past* acts (annulment) or *future* cases (*in rem* relief), those things are still at issue even if there is no *current* automatic stay. See *In re Aheong*, 276 B.R. 233 (9th Cir. BAP 2002). For all of these reasons, the tentative ruling is that it is appropriate to address the following issues.

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Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 20, 2021

Hearing Room 1545

10:00 AM

CONT... Royal Antiques, Inc

Chapter 7

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Retroactive relief

Grant the request for retroactive annulment of the stay. See *In re Nat'l Enviro. Waste Corp.*, 129 F.3d 1052, 1054-56 (9th Cir. 1997); *In re Fjeldsted*, 293 B.R. 12 (9th Cir. BAP 2003); and see also *In re Williams*, 323 B.R. 691, 697-702 (9th Cir. BAP 2005) (various issues involving annulment, and application of *Fjeldsted*), *aff'd*, 204 Fed.Appx. 582 (9th Cir. 2006), *overruled on other issues*, *In re Perl*, 811 F.3d 1120 (9th Cir. 2016) (scope of automatic stay).

Relief notwithstanding future bankruptcy cases.

As to the requested relief that will remain effective notwithstanding any future bankruptcy case, continue the motion to the date and time set forth at the start of this tentative ruling, for service on the persons who executed the documents through which the movant asserts its interest in the property (sometimes referred to in the leasehold context as the "original lessee(s)"). Reasons: See LBR 4001-1(c)(1)(B). In addition, Judge Bason has due process concerns about granting such relief without service on the person(s) whose interests may be most directly affected. See *generally Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306 (1950) (due process generally). In this matter, such persons appear to include: Victor Reza Valanejad.

Option for shortened time: This Court has selected a continued hearing date that contemplates shortened notice (per Rule 9006) but that date is conditioned on the movant (i) serving, on the day after the current hearing date, the motion papers and notice of the continued hearing date, and (ii) filing that notice and a proof of service no later than the next day. Alternatively, the movant may self-calendar a continued hearing on *regular* notice.

Option for interim/partial order: Movant may elect to lodge a

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CONT...

Royal Antiques, Inc

Chapter 7

proposed order granting the *partial* relief provided in this tentative ruling, but any such order must recite that a continued hearing has been set to consider additional relief (or, alternatively, that the movant no longer seeks additional relief and the Clerk's office is requested and directed to take the continued hearing off calendar).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) is also terminated, because it has not been shown to have any basis to exist independent of the stay under 11 U.S.C. 362(a).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone**. You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Royal Antiques, Inc

Represented By
Bruce A Boice

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Hearing Room 1545

10:00 AM

CONT... Royal Antiques, Inc

Chapter 7

Movant(s):

Pasadena Antique Center LLC

Represented By
Gary D Fidler

Trustee(s):

Brad D Krasnoff (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 20, 2021

Hearing Room 1545

10:00 AM

2:20-11037 Jennifer Webb

Chapter 13

#6.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 5/11/21, 6/1/21

U.S. BANK TRUST NATIONAL ASSOC
vs
DEBTOR

Docket 49

Tentative Ruling:

Tentative Ruling for 7/20/21:
Appearances required.

At the 6/1/21 hearing, this Court was persuaded to continue this matter. There is no tentative ruling, but the parties should be prepared to address whether Debtor has been approved for a loan modification, or if they have otherwise resolved their dispute.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone**. You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, July 20, 2021

Hearing Room 1545

10:00 AM

CONT... Jennifer Webb

Chapter 13

**Tentative Ruling for 6/1/21:
Appearances required.**

At the 5/11/21 hearing, this Court agreed to continue this matter to allow Debtor an opportunity to complete a loan modification application. There is no tentative ruling, but the parties should be prepared to address the status of the proposed loan modification.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

**Tentative Ruling for 5/11/21:
Appearances required.**

There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current, (b) whether they will agree to the terms of an adequate protection order, and/or (c) whether Debtor and Movant will agree to a continuance for Debtor to finish attempting to obtain a loan modification (see Debtor's response, dkt. 51).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's

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Central District of California
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CONT... Jennifer Webb

Chapter 13

COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Jennifer Webb

Represented By
Sundee M Teeple

Movant(s):

U.S. Bank Trust National

Represented By
Erica T Loftis Pacheco

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 20, 2021

Hearing Room 1545

10:00 AM

2:21-10360 Maureen C. Redmond

Chapter 7

#7.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 6/15/21

NATIONSTAR MORTGAGE LLC
vs
DEBTOR

Docket 31

Tentative Ruling:

Tentative Ruling for 7/20/21:

Appearances are not required on 7/20/21.

(1) Background

At the hearing on 6/15/21 this Court was persuaded to continue this matter based on the (untimely) oppositions filed by the Chapter 7 Trustee and Debtor. See dkt. 36, 37. This Court set deadlines for supplemental papers, which this Court has now reviewed. See dkt. 53, 54.

(2) Continuance, or order

The tentative ruling is to continue this matter to 8/17/21 at 11:00 a.m., concurrent with Debtor's motion to avoid lien (dkt. 39), provided that Movant is prepared to waive the requirements of 11 U.S.C. 362(e)(1). Movant is directed to file and serve notice of the continued hearing and a proof of service within 7 days after the hearing date.

In the alternative, the tentative ruling is that if Movant is not prepared to waive the requirements of 11 U.S.C. 362(e)(1), Movant may lodge a proposed order via LOU within 7 days after the hearing date and attach a copy of the tentative ruling set forth below, thereby adopting it as this Court's final ruling, subject to any changes ordered at the hearing:

(a) Deny relief under 11 U.S.C. 362(d)(1)

The tentative ruling is to deny the relief requested under 11 U.S.C. 362(d)(1) because on this record this Court is prepared to find that Movant is adequately protected by a significant equity cushion.

**United States Bankruptcy Court
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CONT...

Maureen C. Redmond

Chapter 7

(b) Deny relief under 11 U.S.C. 362(d)(2) and/or grant limited relief

The tentative ruling is to deny the relief requested under 11 U.S.C. 362(d)(2) on the grounds that although this is a chapter 7 case and the Property is not necessary for an effective reorganization (11 U.S.C. 362(d)(2)(B)), Movant has not established that Debtor lacks any equity in the Property (11 U.S.C. 362(d)(2)(A) and (g)(1)) because Debtor has filed a motion under 11 U.S.C. 522(f) and might be able to establish that she can avoid Sulphur Mountain's lien which would free up equity in the Property.

In the alternative, the tentative ruling is that even if this Court were to find that Movant has carried its burden of proof under 11 U.S.C. 362(d)(2), section 362(d) provides that this Court "shall" grant some form of relief, but this Court has discretion as to what form of relief to grant and the tentative ruling is to grant limited relief under 11 U.S.C. 362(d)(2)(A) to require the Trustee and/or Debtor, as appropriate, to prosecute this case so as to figure out who holds what interests in the Property and then arrange either to pay those interests through a section 363 sale or pursue other available relief to administer the Property and assure that Movant (and other creditors) are paid. Based on the filed documents and records before this Court, all of that is happening, so the tentative ruling is that, even if relief "shall" be granted under 11 U.S.C. 362(d)(2), no further relief is warranted at this time.

Note: Nothing in the foregoing tentative ruling shall be interpreted as a ruling regarding whether Debtor is required to obtain any authorization from this Court or consent from the Chapter 7 Trustee to list the subject Property for sale, or any other acts. This Court expresses no opinion on any such issues.

(3) Conclusion

If Movant is prepared to waive the time limit in section 362(e), the tentative ruling is to continue this matter as set forth above. If Movant serves a notice of continuance, that will be deemed a voluntary waiver.

Alternatively, the tentative ruling is (a) to deny the motion for relief from the automatic stay (without prejudice) or, alternatively, to the extent any relief is warranted, (b) rule that relief has already been accorded Movant in the form of progressing toward payment of Movant (and other creditors). No further relief is warranted at this time.

If appearances are not required at the start of this tentative ruling but you

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, July 20, 2021

Hearing Room 1545

10:00 AM

CONT...

Maureen C. Redmond

Chapter 7

wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone**. You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 6/15/21:
Appearances are not required.

Grant as set forth below.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a) (3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so

**United States Bankruptcy Court
Central District of California
Los Angeles
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Hearing Room 1545

10:00 AM

CONT... Maureen C. Redmond Chapter 7

the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Maureen C. Redmond

Represented By
Raymond H. Aver

Movant(s):

Nationstar Mortgage LLC

Represented By
Cassandra J Richey

Trustee(s):

Carolyn A Dye (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 20, 2021

Hearing Room 1545

10:00 AM

2:20-15990 Adrian T Bean

Chapter 13

#8.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 1/5/21, 3/2/21, 4/6/21, 5/4/21, 6/1/21, 6/29/21

MILL CITY MORTGAGE LOAN TRUST 2018-4
vs
DEBTOR

Docket 34

Tentative Ruling:

Tentative Ruling for 7/20/21 (same as for 6/29/21, except as to notice):
Appearances required.

This matter has been continued multiple times since 1/5/21 to allow time for the parties to continue negotiating the terms of an adequate protection stipulation. There is no tentative ruling, but the parties should be prepared to provide an update on the status of those negotiations.

In addition, this Court directed Movant to give notice of the continued hearing but, as of the preparation of this tentative ruling, no notice is on file. Why not?

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone.** You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 20, 2021

Hearing Room 1545

10:00 AM

CONT... Adrian T Bean

Chapter 13

or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Adrian T Bean

Represented By
Christopher J Langley

Movant(s):

Mill City Mortgage Loan Trust 2018

Represented By
Sean C Ferry
Kristin A Zilberstein

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 20, 2021

Hearing Room 1545

10:00 AM

2:20-18681 Leticia Juarez

Chapter 13

#9.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 7/6/21

CREDIT UNION OF SOUTHERN CALIFORNIA
vs
DEBTOR

Docket 33

Tentative Ruling:

Tentative Ruling for 7/20/21:

Appearances required.

At the hearing on 7/6/21 this Court was persuaded to continue the matter so that Debtor and Movant could address the following issues. There is no tentative ruling, but the parties should be prepared to address (a) whether there has been a loan modification or other resolution of the defaults alleged in the motion papers and/or (b) whether they will agree to the terms of an adequate protection order. See Order Continuing Hearing (dkt. 37).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone.** You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 20, 2021

Hearing Room 1545

10:00 AM

CONT... Leticia Juarez

Chapter 13

Tentative Ruling for 7/6/21:

Appearances are not required.

Grant as set forth below.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a) (3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 20, 2021

Hearing Room 1545

10:00 AM

CONT... Leticia Juarez

Chapter 13

Debtor(s):

Leticia Juarez

Represented By
Jonathan Hidalgo

Movant(s):

Credit Union of Southern California

Represented By
Arnold L Graff

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 20, 2021

Hearing Room 1545

10:00 AM

2:19-19773 Jose Armando Jimenez and Martha Laura Arreola De

Chapter 13

#10.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 6/1/21, 7/6/21

SELECT PORTFOLIO SERVICING INC.
vs
DEBTOR

Docket 27

Tentative Ruling:

Tentative Ruling for 7/20/21 (same as for 7/6/21 except dates):
Appearances required.

At the 6/1/21 and 7/6/21 hearings, this Court was persuaded to continue the matter to this date to allow the parties an opportunity to agree to the terms of an adequate protection agreement. See *also* Debtors' Reponse (dkt. 29). As of the date this tentative ruling was prepared, no stipulation and/or proposed adequate protection order has been filed with this Court. There is no tentative ruling, but the parties should be prepared to address whether (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 20, 2021

Hearing Room 1545

10:00 AM

CONT... Jose Armando Jimenez and Martha Laura Arreola De

Chapter 13

Tentative Ruling for 6/1/21:

Appearances are not required.

Grant as set forth below.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a) (3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 20, 2021

Hearing Room 1545

10:00 AM

CONT... Jose Armando Jimenez and Martha Laura Arreola De

Chapter 13

Debtor(s):

Jose Armando Jimenez

Represented By
Lauren M Foley

Joint Debtor(s):

Martha Laura Arreola De Jimenez

Represented By
Lauren M Foley

Movant(s):

Select Portfolio Servicing Inc. as

Represented By
Josephine E Salmon

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 20, 2021

Hearing Room 1545

11:00 AM

2:19-12720 Andrea Pompelli Steyn

Chapter 7

#1.00 Hrg re: Trustee's final report and account;
Application for fees and expenses
[Howard M. Ehrenberg, Ch. 7 Trustee]

Docket 175

Tentative Ruling:

Approve the Trustee's final report and authorize payment of \$6,708.75 in fees and \$2,532.30 in expenses, for a total award of \$9,241.05. Appearances are not required.

Proposed order: Applicant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone.** You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Andrea Pompelli Steyn

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 20, 2021

Hearing Room 1545

11:00 AM

CONT... Andrea Pompelli Steyn

Chapter 7

Trustee(s):

Howard M Ehrenberg (TR)

Represented By
Benjamin Nachimson

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 20, 2021

Hearing Room 1545

11:00 AM

2:19-12720 Andrea Pompelli Steyn

Chapter 7

#2.00 Hrg re: First and final Application for Compensation
[File by Menchaca & Company LLP, Trustee's accountant]

Docket 173

Tentative Ruling:

Approve Menchaca & Company, LLP's fee application and authorize payment of \$3,958.50 in fees and \$23.54 in expenses, for a total award of \$3,982.04. Appearances are not required.

Proposed order: Applicant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone.** You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Andrea Pompelli Steyn

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 20, 2021

Hearing Room 1545

11:00 AM

CONT... Andrea Pompelli Steyn

Chapter 7

Trustee(s):

Howard M Ehrenberg (TR)

Represented By
Benjamin Nachimson

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 20, 2021

Hearing Room 1545

11:00 AM

2:21-10861 Khevin P DeVaughn

Chapter 7

Adv#: 2:21-01085 CYB, LLC, a California limited liability v. DeVaughn et al

#3.00 Status Conference re: Complaint to Declare Debt Non-Dischargeable
Purasant to 11 U.S.C. Secitons 523(a)(2, 4, 6)

Docket 1

Tentative Ruling:

Appearances required.

(A) Current issues

This Court has reviewed the parties' Status Report (adv.dkt.4, 6). The parties are directed to address whether the non-response by Comstock Brewing Co. is any impediment to proceeding as set forth below.

(B) Standard requirements

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority

The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this Bankruptcy Court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. *See generally Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 20, 2021

Hearing Room 1545

11:00 AM

CONT... **Khevin P DeVaughn**

Chapter 7

liquidate debt and enter final judgment). *See generally In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation

Is there is any reason why this Court should not order the parties to mediation before one of the volunteer mediators (*not* a Bankruptcy Judge), and meanwhile set the deadlines set forth below? The tentative ruling is to set a **deadline of 8/3/21** for the parties to lodge a proposed mediation order (the parties are directed to use the time between now and that deadline to find a mutually agreeable mediator whose schedule can accommodate the needs of this matter; and if the parties cannot even agree on a mediator they may lodge separate orders and Judge Bason will chose among them, or issue his own order).

(3) Deadlines

This adversary proceeding has been pending since 5/10/21. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Joinder of parties/amendment of pleadings-deadline: 8/24/21

Discovery cutoff (for completion of discovery): 10/12/21.

Expert(s) - deadline for reports: N/A

Expert(s) - discovery cutoff (if different from above): N/A

Dispositive motions to be heard no later than: 11/30/21

Joint Status Report: 9/28/21.

Continued status conference: 10/12/21 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers, including direct testimony by declaration unless excused: TBD (for the format of exhibits and other trial procedures, please see the Procedures of Judge Bason (posted at www.cacb.uscourts.gov) then search for "Trial Practice" BUT, at least during the COVID-19 shut down of the courtroom, also see the forms of order regarding video trials, posted on Judge Bason's portion of the Court's above-referenced web page)

Trial commencement: TBD

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 20, 2021

Hearing Room 1545

11:00 AM

CONT... Khevin P DeVaughn

Chapter 7

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone.** You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Khevin P DeVaughn

Represented By
Julie J Villalobos

Defendant(s):

Dimitra S DeVaughn

Pro Se

Khevin P DeVaughn

Pro Se

Comstock Brewing Company, a

Pro Se

Joint Debtor(s):

Dimitra S DeVaughn

Represented By
Julie J Villalobos

Plaintiff(s):

CYB, LLC, a California limited

Represented By
Lane M Nussbaum

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 20, 2021

Hearing Room 1545

11:00 AM

CONT... Khevin P DeVaughn

Chapter 7

Trustee(s):

John J Menchaca (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 20, 2021

Hearing Room 1545

11:00 AM

2:21-10360 Maureen C. Redmond

Chapter 7

#4.00 Cont'd Hrg re: Motion to Avoid Lien Property Lien
with Sulphur Mountain Land And Livestock Co., LLC
fr. 07/06/21

Docket 39

***** VACATED *** REASON: Continued to 8/17/21 at 11:00 a.m. pursuant
to the parties' stipulation (dkt. 56) and order thereon**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Maureen C. Redmond

Represented By
Raymond H. Aver

Trustee(s):

Carolyn A Dye (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 20, 2021

Hearing Room 1545

11:00 AM

2:19-14137 Zeta Graff

Chapter 7

Adv#: 2:20-01677 Leslie v. Graff

#5.00 Cont'd Status Conference re: Complaint to Deny / Revoke Debtor's Discharge Pursuant to 11 U.S.C. 727(a)(6) and (d)(3) fr. 2/9/21, 4/27/21, 5/4/21

Docket 1

Tentative Ruling:

Tentative Ruling for 7/20/21:

Continue as set forth below. Appearances are not required on 7/20/21.

(A) Current issues

The Court has no issues to raise *sua sponte* at this time.

(B) Standard requirements

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited at the hearing(s) on 2/9/21.

(2) Mediation

[Intentionally omitted]

(3) Deadlines

This adversary proceeding has been pending since 12/7/20. The deadlines set in this Court's prior scheduling orders (adv. dkt. 10, 18), have been vacated pursuant to this Court's order extending the discovery deadline and continuing the trial (adv. dkt. 29). That order set new deadlines for discovery and for the filing of dispositive motions. New dates for the trial, pre-trial conference, deadline to file a joint pre-trial order, and the deadline to deliver trial exhibits will be set at the continued status conference.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 20, 2021

Hearing Room 1545

11:00 AM

CONT... Zeta Graff

Chapter 7

Joint Status Report: No written status report required.
Continued status conference: 10/26/21 at 11:00 a.m.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone**. You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[INTERIM TENTATIVE RULINGS OMITTED]

Tentative Ruling for 2/9/21:

Appearances required.

(A) Current issues

* * * [Intentionally omitted]

(B) Standard requirements

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority

The parties are directed to address any outstanding matters of (a)

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 20, 2021

Hearing Room 1545

11:00 AM

CONT... **Zeta Graff**

Chapter 7

venue, (b) jurisdiction, (c) this Bankruptcy Court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. *See generally Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). *See generally In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation
[Intentionally omitted.]

(3) Deadlines
[Intentionally omitted]

Party Information

Debtor(s):

Zeta Graff

Represented By
Damion Robinson

Defendant(s):

Zeta Graff

Pro Se

Plaintiff(s):

Sam S. Leslie

Represented By
Elissa Miller

Trustee(s):

Sam S Leslie (TR)

Represented By

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 20, 2021

Hearing Room 1545

11:00 AM

CONT... Zeta Graff

Elissa Miller

Chapter 7

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 20, 2021

Hearing Room 1545

11:00 AM

2:16-16363 Lake Mathews Mineral Properties, LTD

Chapter 7

Adv#: 2:20-01160 Merritt, an individual v. PECAS LLC, a Delaware Limited Liability

#6.00 Cont'd Status Conference re: Complaint for 1) Declaratory Relief to Quiet Title; 2) Violation of California Business and Professions Code Section 17200 for an Unlawful Business Practice; 3) Actual Fraudulent Transfer fr. 9/29/20, 3/23/21

Docket 1

Tentative Ruling:

Tentative Ruling for 7/20/21:

Appearances required.

At the 3/23/21 hearing, this Court continued the status conference to this date based on Plaintiff's pending appeal. There is no tentative ruling, however the parties should be prepared to address the status of the appeal, and how long a further continuance to grant.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone.** You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 20, 2021

Hearing Room 1545

11:00 AM

CONT... Lake Mathews Mineral Properties, LTD

Chapter 7

Party Information

Debtor(s):

Lake Mathews Mineral Properties,

Represented By

Michael Jay Berger

Cassandra J Richey

Shirley Smith - SUSPENDED -

Defendant(s):

PECAS LLC, a Delaware Limited

Pro Se

Chabad Temple Inc

Pro Se

Plaintiff(s):

Paul Merritt, an individual

Pro Se

Trustee(s):

Elissa Miller (TR)

Represented By

Franklin C Adams

Juliet Y Oh

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 20, 2021

Hearing Room 1545

11:00 AM

2:18-22904 Sasha Demovsky-Kapustyan

Chapter 13

Adv#: 2:20-01666 Demovsky-Kapustyan v. Vayntrub et al

#7.00 Cont'd status conference re: Complaint for Turnover
of Property of the Estate, Unjust Enrichment
fr. 1/26/21, 3/2/21, 5/11/21

Docket 1

***** VACATED *** REASON: Continued to 8/17/21 at 11:00 a.m. pursuant
to the parties' stipulation (adv. dkt. 36) and order thereon**

Tentative Ruling:

Party Information

Debtor(s):

Sasha Demovsky-Kapustyan

Represented By
Richard T Baum

Defendant(s):

David Vayntrub

Represented By
Charles Shamash
Joseph E. Caceres

Irena Vayntrub

Represented By
Charles Shamash
Joseph E. Caceres

Absolute Herbal Pain Solutions, Inc.

Represented By
Charles Shamash

Plaintiff(s):

Sasha Demovsky-Kapustyan

Represented By
Richard T Baum

Trustee(s):

Kathy A Dockery (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar

Tuesday, July 20, 2021

Hearing Room 1545

11:00 AM

2:18-24302 GL Master Inc

Chapter 7

Adv#: 2:20-01678 Wolkowitz v. Hot Pot Austin LLC

#8.00 Hrg re: Plaintiff's Motion For Default Judgment Under LBR 7055-1

Docket 9

*** VACATED *** REASON: This matter is scheduled to be heard at a
different time. See #5 at 2:00 p.m.

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

GL Master Inc

Represented By
Thomas J Polis

Defendant(s):

Hot Pot Austin LLC

Pro Se

Plaintiff(s):

Edward M. Wolkowitz

Represented By
Juliet Y Oh
Richard P Steelman Jr

Trustee(s):

Edward M Wolkowitz (TR)

Represented By
Juliet Y Oh

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 20, 2021

Hearing Room 1545

11:00 AM

2:18-24302 GL Master Inc

Chapter 7

Adv#: 2:20-01678 Wolkowitz v. Hot Pot Austin LLC

#9.00 Cont'd Status Conference re: Complaint for Avoidance and Recovery of Preferential Transfers [11 U.S.C. Sections 547(b), 550(a), and 551] fr. 2/9/21, 5/4/21, 6/29/21

Docket 1

***** VACATED *** REASON: This matter is scheduled to be heard at a different time. See #6 at 2:00 p.m.**

Tentative Ruling:

Party Information

Debtor(s):

GL Master Inc

Represented By
Thomas J Polis

Defendant(s):

Hot Pot Austin LLC

Pro Se

Plaintiff(s):

Edward M. Wolkowitz

Represented By
Juliet Y Oh
Richard P Steelman Jr

Trustee(s):

Edward M Wolkowitz (TR)

Represented By
Juliet Y Oh

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 20, 2021

Hearing Room 1545

11:00 AM

2:18-24302 GL Master Inc

Chapter 7

Adv#: 2:20-01680 Wolkowitz v. The Law Offices of Lynn Chao, A.P.C., a California

#10.00 Cont'd status conference re: Complaint for avoidance and recovery of preferential transfers [11 U.S.C. sections 547(b), 550(a), and 551] fr. 2/9/21, 5/4/21

Docket 1

***** VACATED *** REASON: This matter is scheduled to be heard at a different time. See #7 at 2:00 p.m.**

Tentative Ruling:

Party Information

Debtor(s):

GL Master Inc

Represented By
Thomas J Polis

Defendant(s):

The Law Offices of Lynn Chao,

Pro Se

Plaintiff(s):

Edward M. Wolkowitz

Represented By
Juliet Y Oh
Richard P Steelman Jr

Trustee(s):

Edward M Wolkowitz (TR)

Represented By
Juliet Y Oh

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 20, 2021

Hearing Room 1545

11:00 AM

2:18-24302 GL Master Inc

Chapter 7

Adv#: 2:20-01683 Wolkowitz v. Young Young Food, LLC

#11.00 Cont'd Status Conference re: Complaint for Avoidance and Recovery of Preferential Transfers [11 U.S.C. Sections 547(b), 550(a) and 551] fr. 2/9/21, 5/4/21

Docket 1

*** VACATED *** REASON: This matter is scheduled to be heard at a different time. See #8 at 2:00 p.m.

Tentative Ruling:

Party Information

Debtor(s):

GL Master Inc

Represented By
Thomas J Polis

Defendant(s):

Young Young Food, LLC

Pro Se

Plaintiff(s):

Edward M. Wolkowitz

Represented By
Juliet Y Oh
Richard P Steelman Jr

Trustee(s):

Edward M Wolkowitz (TR)

Represented By
Juliet Y Oh

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 20, 2021

Hearing Room 1545

1:00 PM

2:21-12517 Law Offices of Brian D. Witzer

Chapter 11

Adv#: 2:21-01084 Law Offices of Brian D. Witzer, Inc. v. Pravati Credit Fund III, LLP

#1.00 Status conference re: Amended complaint for: (1) Injunctive relief (11 U.S.C. section 105(a)); (2) For violation of the automatic stay (11 U.S.C. section 362(a)); (3) Avoidance of preference [11 U.S.C. section 547]; (4) Recovery of avoided transfer [11 U.S.C. section 550(a)]; and (5) Automatic preservation of avoided transfer [11 U.S.C. section 551] fr. 7/6/21

Docket 2

***** VACATED *** REASON: Continued to 8/17/21 at 1:00 p.m.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Law Offices of Brian D. Witzer

Represented By
Michael Jay Berger

Defendant(s):

Pravati Credit Fund III, LLP

Represented By
Cameron H Totten

Plaintiff(s):

Law Offices of Brian D. Witzer, Inc.

Represented By
Michael Jay Berger

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 20, 2021

Hearing Room 1545

1:00 PM

2:21-12517 Law Offices of Brian D. Witzer

Chapter 11

#2.00 Cont'd Status Conference re: Chapter 11 Case
fr. 3/31/21, 4/27/21, 5/11/21, 6/15/21, 6/29/21,
7/6/21

Docket 1

***** VACATED *** REASON: Continued to 8/17/21.**

Tentative Ruling:

Party Information

Debtor(s):

Law Offices of Brian D. Witzer

Represented By
Michael Jay Berger

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 20, 2021

Hearing Room 1545

1:00 PM

2:17-19548 Layfield & Barrett, APC

Chapter 11

#3.00 Hrg re: Motion for relief from stay [NA]

JOSEPH MARTIN BARRETT
vs
DEBTOR

Docket 567

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 4, 7/20/21 at 1:00 p.m.).

Party Information

Debtor(s):

Layfield & Barrett, APC

Pro Se

Movant(s):

Joseph Martin Barrett

Represented By
Damion Robinson

Trustee(s):

Richard Pachulski (TR)

Represented By
Malhar S Pagay
James KT Hunter

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 20, 2021

Hearing Room 1545

1:00 PM

2:17-19548 Layfield & Barrett, APC

Chapter 11

#4.00 Cont'd Status Conference re: Chapter 11 Case
fr. 9/19/17, 10/17/17, 4/17/18, 5/1/18, 7/10/18, 9/18/18,
10/26/18, 12/6/18, 12/18/18, 2/5/19, 03/05/19, 04/02/19
04/30/19, 06/04/19, 7/30/19, 9/10/19, 10/1/19, 10/15/19,
11/12/19, 12/10/19, 12/17/19, 2/18/20, 3/3/20, 03/31/20,
8/4/20, 9/1/20, 9/15/20, 12/8/20, 5/4/21

Docket 323

Tentative Ruling:

Tentative Ruling for 7/20/21:

Appearances are not required on 7/20/21.

(1) Current matters

(a) Related proceedings

The matters on calendar involve two related bankruptcy cases and associated matters: (a) *In re Layfield & Barrett, APC*, Case No. 2:17-bk-19548-NB ("L&B"); (b) *In re Layfield*, Case No. 2:18-bk-15829-NB ("Lay-Invol."); (c) *Pimentel v. Layfield et al*, Case No. 2:19-ap-01069-NB ("Pimentel Adv."), (d) *Pachulski v. Layfield*, Case No. 2:19-ap-01071-NB ("Pachulski Adv.").

(b) Motion for relief from the automatic stay (action in nonbankruptcy forum) (dkt. 567, the "R/S Motion") filed by Joseph Barrett and the Barrett Law Firm (collectively, "Barrett"), Trustee's opposition (dkt. 570) & request for judicial notice (dkt. 572), Barrett's reply (dkt. 573)

The tentative ruling is deny the R/S Motion, for the reasons stated in the Trustee's opposition papers, except as follows. The Trustee is directed to address whether there is a way to grant Barrett access to L&B's records, with appropriate safeguards and at minimal expense, so as to reduce the risk of potential prejudice to Barrett in having to defend the State Courts without the benefit of obtaining discovery from L&B.

Additional analysis:

Without limiting the generality of the tentative ruling to adopt the reasons set forth in the Trustee's Opposition, this Bankruptcy Court highlights

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CONT... **Layfield & Barrett, APC**

Chapter 11

the following issues. The Bankruptcy Court "shall grant relief from the stay" upon a showing of "cause." 11 U.S.C. 362(d)(1). "'Cause' is determined on a case-by-case basis." *In re Tucson Estates, Inc.*, 912 F.2d 1162, 1166 (9th Cir.1990).

In determining whether "cause" exists to grant relief from the automatic stay to allow a movant to pursue litigation in a non-bankruptcy forum, courts in the Ninth Circuit have examined the factors set forth in *In re Curtis*, 40 B.R. 795, 799–800 (Bankr. D. Utah 1984). See *In re Kronemeyer*, 405 B.R. 915 (9th Cir. BAP 2009); *In re Plumberex Specialty Prods., Inc.*, 311 B.R. 551, 559–60 (Bankr. C.D. Cal.2004). Those factors have been set forth in the parties' papers. "[W]hile the *Curtis* factors are widely used to determine the existence of 'cause,' not all of the factors are relevant in every case, nor is a court required to give each factor equal weight." *In re Landmark Fence Co., Inc.*, 2011 WL 6826253 at *4 (C.D. Cal. Dec. 9, 2011).

Barrett's reply argues that, just as this Bankruptcy Court granted relief from the automatic stay for Mr. Pimentel to be able to litigate against affiliated debtor Mr. Layfield, Barrett should be granted relief from the automatic stay to litigate against L&B. Reply (dkt.573), p.2:5-23. Although there are certainly parallels, there are some major differences between the two situations.

First, Mr. Layfield is an individual who can defend himself if he lacks the resources to hire an attorney in the *Pimentel* action in State Court, whereas L&B is an entity that can only appear through counsel. So granting the R/S Motion would require either that someone pay for an attorney for L&B or alternatively that L&B default. Either scenario would "prejudice the interests of other creditors" and also (in this administratively insolvent estate) administrative claimants. See Opp.(dkt.570), *passim*, and Reply, p.5 n.2 (quoting, inter alia, 7th *Curtis* factor).

Second, any alleged prejudice to Barrett from not having L&B as a cross-defendant appears to be more hypothetical than real. For one thing, there is no assurance that the State Courts would permit Barrett to add L&B as a cross-defendant at this apparently late stage. For another thing, all organizations can only act through individuals, and Barrett remains free to subpoena any individuals through whom L&B acted, such as any bookkeepers, any office managers, and any attorneys involved in the Pimentel matter or involved in management of L&B's finances, including Mr. Layfield

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(subject to any automatic stay, discharge injunction, Fifth Amendment privilege, or similar limitation). As for any claim that Barrett might have against L&B, Barrett has the same rights as any other creditor to file a proof of claim and, if the estate ever has any assets, receive his share.

Third, although Barrett asserts that he/it will suffer harm or prejudice if L&B is not required to defend them and Mr. Barrett is forced to "fund his own defense" (Reply, dkt.573, pp.3:20-4:2), Barrett has not cited any authority that a debtor in bankruptcy is required to expend resources (as an administrative priority) to pre-pay such indemnity claims. To the contrary, as noted by the L&B Trustee, elevating Barrett's claim for indemnity to an administrative expense, in this administratively insolvent case, would effectively force administrative claimants to fund the liquidation of a non-priority unsecured claim (while not doing the same for other claims). See Opp. (dkt.570), p.9:11-17. Like all creditors, Barrett is prejudiced by L&B's bankruptcy case, but as the saying goes, "you can't get blood from a stone." Moreover, instead of being elevated, there is a substantial possibility that Barrett's claim would be subordinated under 11 U.S.C. 502(e)(1) or 510(c), which would make any pre-payment of his indemnity claims, at the expense of other creditors and administrative claimants, particularly inappropriate. See Opp. (dkt.570), pp. 7:21-8:13 & nn.6-7 and pp.9:18-12:2 & n.9.

Of course, this Bankruptcy Court is mindful of the possibility that the State Courts might hold that L&B is so indispensable to the *Pimentel* litigation that such litigation cannot proceed without L&B (see Reply, dkt.573, p.3:3-17), and, in that hypothetical situation, evidence *theoretically* could become stale or there could be other prejudice to Mr. Pimentel, Barrett, and possibly others. But, again, all parties remain free to subpoena witnesses, and in addition the State Courts may well be able to bifurcate issues or proceed in other ways. Therefore, Barrett has not established a likelihood of any *actual* prejudice; and, in any event, on the record before this Bankruptcy Court there is far greater risk of prejudice to the bankruptcy estate, its fiduciaries, and all other creditors if the R/S Motion were to be granted.

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For all of the foregoing reasons and the reasons stated in the Trustee's opposition papers, especially the potential harm to other creditors and administrative claimants and the "impact on the parties and the 'balance of hurt,'" the tentative ruling is to deny the R/S Motion. See Reply, p.5 n.2 (quoting, *inter alia*, 7th and 12th *Curtis* factors).

Proposed order: The Trustee is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. The L&B case was filed as an involuntary chapter 7 on 8/3/17 and converted to chapter 11 on 8/11/17 (L&B dkt. 25). The Lay-Invol case was filed as an involuntary chapter 7 case on 5/21/18 and an order for relief was entered on 12/12/18 (Lay-Invol dkt. 160, 161).

- (a) L&B Bar date: 2/5/18 (timely served, L&B dkt. 133, 157)
- (b) Lay-Invol Bar date: 4/12/19 (timely served, Lay-Invol dkt.180)
- (c) L&B Plan/Disclosure Statement*: TBD. Do not file or serve until further order of this Court.
- (d) Continued status conference: 8/3/21 at 11:00 a.m., concurrent with other matters. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone**. You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval

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or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Layfield & Barrett, APC	Pro Se
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Movant(s):

Layfield & Barrett, APC	Pro Se
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Trustee(s):

Richard Pachulski (TR)	Represented By Malhar S Pagay James KT Hunter
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2:18-15559 R44 LENDING GROUP, LLC a Delaware Limited Liabilit

Chapter 11

#5.00 Hrg re: Motion for Order Determining Amount
of Occupant Payments Pursuant To Debtor's
Confirmed Chapter 11 Plan

Docket 257

***** VACATED *** REASON: Continued to 8/3/21 at 1pm, per stipulation
(dkt. 261) and order thereon.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

R44 LENDING GROUP, LLC a

Represented By
Jeffrey S Shinbrot

Movant(s):

R44 LENDING GROUP, LLC a

Represented By
Jeffrey S Shinbrot
Jeffrey S Shinbrot

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2:18-15559 R44 LENDING GROUP, LLC a Delaware Limited Liabilit

Chapter 11

#6.00 Cont'd Status Conference re: Post Confirmation
fr. 6/12/18, 6/26/18, 08/07/18, 10/9/18, 11/6/18,
12/11/18, 03/12/19, 3/26/19, 5/14/19, 6/11/19,
7/2/19, 7/30/19, 9/17/19, 11/12/19, 12/17/19,
3/10/20, 6/16/20, 8/18/20, 9/29/20, 11/10/20,
12/8/20, 2/16/21, 3/5/21, 6/15/21

Docket 5

***** VACATED *** REASON: Continued to 8/3/21 at 1pm, per stipulation
(dkt. 261) and order thereon.**

Tentative Ruling:

Party Information

Debtor(s):

R44 LENDING GROUP, LLC a

Represented By
Jeffrey S Shinbrot

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2:20-10357 Reijo Kustaa Myllyla

Chapter 11

#7.00 Cont'd Status Conference re: Chapter 11 Case
fr. 02/04/20, 02/18/20, 3/3/20, 4/7/20, 5/12/20,
6/16/20, 7/14/20, 9/1/20, 10/6/20, 11/20/20,
12/22/20, 1/26/21,4/6/21, 6/15/21

Docket 6

Tentative Ruling:

**Tentative Ruling for 7/20/21:
Appearances required.**

(1) Current issues

(a) Debtor's anticipated settlement motion in main case (relating to Garcia v. Myllyla, Adv. No. 2:20-01098)

This Court continued the 1/26/21 and 6/15/21 hearings based on the representations of the parties that a settlement agreement was prepared and was being circulated for signatures. Debtor also represented to this Court that a motion under Rule 9019 (Fed. R. Bankr. P.) would be forthcoming within a week of the settlement agreement's full execution. At the hearing on 6/15/21, counsel for Plaintiff in the adversary proceeding represented that serious medical issues were the cause of the delays, but that they were substantially better. Notwithstanding that report, as of the date this tentative ruling was prepared no settlement motion has been filed, nor is any activity reflected on the docket in the bankruptcy case or adversary proceeding.

There is no tentative ruling, but the parties are directed to address whether this Court should order a final continuance.

(b) Monthly Operating Reports ("MORs")

Debtor's amended MOR for 5/31 (dkt. 73) appears to have addressed the Court's concerns raised in this Court's tentative ruling for the 6/15/21 hearing.

(2) Deadlines/dates. This case was filed on 1/13/20.

(a) Bar date: 5/31/20 (dkt. 27; timely served, dkt. 28).

(b) Procedures order: dkt. 3 (timely served, dkt. 9).

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(c) Plan/Disclosure Statement*: TBD

(d) Continued status conference: 8/31/21 at 1:00 p.m., *if* this case is not dismissed. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone**. You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 6/15/21:

Appearances required.

(1) Current issues

(a) Debtor's anticipated settlement motion in main case (relating to Garcia v. Myllyla, Adv. No. 2:20-01098)

This Court continued the 4/6/21 hearing on this matter to allow the parties an opportunity to complete settlement negotiations and for Debtor to prepare motion under Rule 9019 (Fed. R. Bankr. P.) for any agreed upon settlement. As of the date this tentative ruling was prepared, no such settlement motion has been filed. There is no tentative ruling, but the parties should be prepared to address the status of this adversary proceeding and the bankruptcy case in general.

(b) Monthly Operating Reports ("MORs")

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Reijo Kustaa Myllyla

Chapter 11

Debtor's recent MORs report that Debtor has not been making credit card payments because those accounts "have been blocked" postpetition. See, e.g., MOR (for 5/21) (dkt.72), at p.1, line 3, & PDF p.5. What does that mean?

How much does Debtor owe on these credit card accounts, and why is the total dollar amount not listed on line 24, with details in an attached Exhibit "E," as required by the instructions on the MOR? See *id.*, p.2, line 24.

Debtor projects negative cash flow in June of \$3,053.85. *Id.*, p.3, line 37. Will Debtor be able to pay the overdue credit card bills, given that Debtor reports only \$4,513.01 of cash on hand at the end of May (*id.*, p.2, line 23)?

This case is nearly a year and a half old, and it appears that Debtor is either currently unable to pay ongoing expenses or is on the verge of being unable to do so. Is Debtor experiencing a "continuing loss to or diminution of the estate and the absence of a reasonable likelihood of rehabilitation," an "unexcused failure to satisfy [the MOR] reporting requirement," or other "cause" for dismissal or conversion of this bankruptcy case? See 11 U.S.C. 1112(b)(1) *and* (4)(A) & (F).

Given the lack of any activity on the docket in the adversary proceeding or the bankruptcy case, as well as the lack of compliance with the MOR reporting requirements listed above, has Debtor willfully failed to appear on proper prosecution of this case? See 11 U.S.C. 109(g)(1). Should this case be dismissed with a bar against being a debtor in any future bankruptcy case for a period of 180 days? See *id.*

(2) Deadlines/dates. This case was filed on 1/13/20.

(a) Bar date: 5/31/20 (dkt. 27; timely served, dkt. 28).

(b) Procedures order: dkt. 3 (timely served, dkt. 9).

(c) Plan/Disclosure Statement*: TBD

(d) Continued status conference: 7/20/21 at 1:00 p.m., *if* this case is not dismissed. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

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are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 1/26/21:
Appearances required.

(1) Current issues

(a) Successful mediation (adv. dkt. 49)

The parties are directed to address the terms of the settlement (per their status report, adv. dkt. 52), and whether those terms require notice to other creditors and an opportunity for those creditors to object, pursuant to a motion under Rule 9019 (Fed. R. Bankr. P.) filed in the bankruptcy case (not in the adversary proceeding). In any event, the tentative ruling is to take the adversary proceeding matters off calendar, and continue the status conference in the bankruptcy case as set forth below.

(2) Deadlines/dates. This case was filed on 1/13/20.

(a) Bar date: 5/31/20 (dkt. 27; timely served, dkt. 28).

(b) Procedures order: dkt. 3 (timely served, dkt. 9).

(c) Plan/Disclosure Statement*: TBD

(d) Continued status conference: 3/2/21 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are

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appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Reijo Kustaa Myllyla

Represented By
Byron Z Moldo

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2:21-10368 Mrudula Kothari

Chapter 11

#8.00 Cont'd Status Conference re: Chapter 11 Case
fr. 2/9/21, 03/02/21, 4/6/21, 4/27/21, 6/1/21

Docket 1

Tentative Ruling:

Tentative Ruling for 7/20/21:

Continue as set forth below. Appearances are not required on 7/20/21.

(1) Current issues

This Court has reviewed Debtor's status report (dkt. 86). This Court has no issues to raise *sua sponte* at this time regarding the matters in the status report.

(a) Objection (dkt.85) of Towd Point Master Funding Trust 2018-PM27 ("Secured Creditor") to confirmation of chapter 11 plan (dkt. 58)

At a hearing on 4/27/21, this Court addressed a number of issues with Debtor's plan (dkt. 58) and noted that Debtor will need to file an amended Plan addressing those issues before this Court will authorize it to be served on all creditors; but this Court held off on setting a deadline for Debtor to file an amended plan (and has not set a confirmation hearing date) until it is clear whether Debtor will be able to obtain post-petition financing to fund repairs for the El Nido Property.

In view of the foregoing, the tentative ruling is that, to the extent Secured Creditor's objection pertains to Debtor's current plan, it is overruled as moot. And to the extent Secured Creditor's objection pertains to future plans, it is premature and therefore is denied as moot. All of the foregoing is without prejudice to Secured Creditor's rights to object to any future amended plans, on the same or different grounds as its current objection.

Proposed order: Debtor is directed to lodge a proposed order via LOU within 7 days after the hearing date, denying the claim objection as moot. See LBR 9021-1(b)(1)(B).

(2) Dates/procedures. This case was filed on 1/19/21 .

(a) Bar date: 3/30/21 per General Order 20-01 (70 days after petition

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Mrudula Kothari

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date in Subchapter V cases) (DO NOT SERVE any notice: one has already been sent, see dkt. 11).

(b) Procedures order: dkt. 8 (timely served, dkt. 12)

(c) AmPlan/AmDisclosure Statement: TBD

(d) Continued status conference: 8/31/21 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone**. You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Mrudula Kothari

Represented By
Stella A Havkin

Trustee(s):

Susan K Seflin (TR)

Pro Se

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Mrudula Kothari

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2:21-10956 LAX In-Flite Services, LLC

Chapter 11

#9.00 Cont'd hrg re: Motion of Debtor for Approval
of Sale of Substantially All of its Assets
fr. 05/11/21, 05/19/21, 05/26/21, 06/15/21,
6/29/21

Docket 59

Tentative Ruling:

Tentative Ruling for 7/20/21:

Please see the tentative ruling for the status conference (Calendar No. 9,
7/20/21 at 1:00 p.m.).

Tentative Ruling for 6/29/21:

Please see the tentative ruling for the status conference (Calendar No. 15,
6/29/21 at 1:00 p.m.).

Tentative Ruling for 6/15/21:

Please see the tentative ruling for the status conference (Calendar No. 14,
6/15/21 at 1:00 p.m.).

Tentative Ruling for 5/26/21:

Please see the tentative ruling for the status conference (Calendar No. 2,
5/26/21 at 3:30 p.m.).

Tentative Ruling for 5/19/21:

Please see the tentative ruling for the status conference (Calendar No. 2,
5/19/21 at 2:30 p.m.).

Party Information

Debtor(s):

LAX In-Flite Services, LLC

Represented By
Jeremy H Rothstein

Movant(s):

LAX In-Flite Services, LLC

Represented By

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Jeremy H Rothstein

Jeremy H Rothstein

Trustee(s):

John-Patrick McGinnis Fritz (TR)

Pro Se

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2:21-10956 LAX In-Flite Services, LLC

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#10.00 Cont'd Status Conference re: Chapter 11 Case
fr. 02/25/21, 03/02/21, 4/6/21, 4/27/21, 5/11/21,
5/19/21, 5/26/21, 6/15/21, 6/29/21, 7/6/21

Docket 1

Tentative Ruling:

Tentative Ruling for 7/20/21:

Appearances are not required on 7/20/21.

(1) Current issues

(a) Debtor's motion to sell substantially all of its assets ("Sale Motion," dkt. 61-65, 67), Opposition of Ruth Gonzales, Braubert Andres, and Guillermo J. Lopez Gutierrez ("Gonzales et al.") (dkt. 77), SubchapterV Trustee's response (dkt. 83), Joinder of Samuel Pearce Trust ("Pearce") (dkt. 86), Debtor's reply to Gonzales et al. (dkt. 88), Debtor's reply to SubchapterV Trustee's response (dkt. 95), Schedules to APA (dkt. 99), Stipulation/Order continuing hearing (dkt. 102, 104), Stipulation re form of APA and form of order (the "Global Stipulation," dkt. 120)

The tentative ruling is to grant the Sale Motion as provided in the Global Stipulation, and for the reasons set forth in this Court's 5/19/21 tentative ruling (copied below) and the additional reasons stated on the record at the prior hearings on the Sale Motion.

Proposed order: Debtor is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

(b) Debtor's plan (dkt. 89), or other "exit strategy" for this case

This Court notes that Debtor filed what appears to be a placeholder plan on 5/6/21 (dkt. 89). The tentative ruling is to not set a deadline for Debtor to file an amended plan, nor to address any other exit strategy (e.g., dismissal), until after the sale has closed.

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CONT... LAX In-Flite Services, LLC

Chapter 11

- (2) Dates/procedures. This case was filed on 2/5/21.
- (a) Bar date: 4/16/21 per General Order 20-01 (70 days after petition date in Subchapter V cases) (DO NOT SERVE any notice: one has already been sent, see dkt.16).
 - (b) Procedures order: dkt.3 (timely served, dkt.9)
 - (c) AmPlan/AmDisclosure Statement: See above.
 - (d) Continued status conference: 8/31/21 at 1:00 p.m., concurrent with other matters. No written status report required.
- *Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone**. You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[INTERIM TENTATIVE RULINGS OMITTED]

Tentative Ruling for 5/19/21:
Appearances required.

- (1) Current issues
- (a) Debtor's motion to sell substantially all of its assets ("Sale Motion," dkt. 61-65, 67), Opposition of Ruth Gonzales, Braubert Andres, and Guillermo

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CONT... LAX In-Flite Services, LLC

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J. Lopez Gutierrez ("Gonzales et al.") (dkt. 77), SubchapterV Trustee's response (dkt. 83), Joinder of Samuel Pearce Trust ("Pearce") (dkt. 86), Debtor's reply to Gonzales et al. (dkt. 88), Debtor's reply to SubchapterV Trustee's response (dkt. 95), Schedules to APA (dkt. 99)

The tentative ruling is that the following issues must be addressed before any sale can be approved. On the one hand, the tentative ruling is that Debtor has established sufficient justification for a quick sale of substantially all of its assets without overbids, instead of the delays and expenses of attempting to market the assets and hold an auction, which likely would result in *lower* net recoveries. Likewise, the tentative ruling is that Debtor has established sufficient justification for a sale instead of attempting to accomplish the same transaction through a chapter 11 plan, again because of the projected delays and costs of the latter proceeding (although those disadvantages might be exaggerated, given the speed and efficiency that are possible in Subchapter V).

In addition, the tentative ruling is that any sale can be free and clear of liens and other interests under 11 U.S.C. 363(f). Although this Court is not persuaded that "applicable nonbankruptcy law" provides for a sale of substantially all assets to an insider free and clear of successor liability and other interests in the assets (section 363(f)(1)), or that a lack of objection is the same as "consent[]" (section 363(f)(2)) (dkt.59, pp.11:3-12:10), nevertheless section 363(f)(4) and (5) apply. Any purported lien or interest would qualify as "disputed" under section 363(f)(4), because of Debtor's lien searches, the lack of notice to Debtor of any other encumbrances or interests (other than Permitted Encumbrances), and the usual grounds for contesting any successor liability. Alternatively, this Court is persuaded that section 363(f)(5) applies because of the existence of "legal or equitable proceeding[s]" that could compel holders of any liens or other interests to accept a "money satisfaction," such as foreclosures and receiverships in which sales can be accomplished free and clear. As stated in the posted "Procedures of Judge Bason" (available at www.cacb.uscourts.gov) under "Common matters":

Regarding § 363(f)(5), the judge does not follow *Clear Channel Outdoor, Inc. v. Knupfer (In re PW, LLC)*, 391 B.R. 25, 40 (B.A.P. 9th Cir. 2008). He has ruled that a sale free and clear is permissible under § 363(f)(5) whenever the interest at issue is subject to monetary valuation. See *In re Trans World Airlines, Inc.*,

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322 F.3d 283, 290-91 (3d Cir. 2003) ("*TWA*") (because employees' claims were "subject to monetary valuation," debtor's assets could be sold free and clear of successor liability for such claims under § 363(f)(5)). Alternatively, the judge has ruled that "cramdown" is among the types of legal or equitable proceeding within the statute, or that *Clear Channel* is distinguishable in most cases under the rationale of *In re Jolan*, 403 B.R. 866 (Bankr. W.D. Wash. 2009), because holders of interests can be compelled in numerous other types of legal or equitable proceedings to accept a money satisfaction (which might be \$-0- in the case of an interest that is entirely underwater). Those proceedings include a hypothetical foreclosure by one of the lienholders, or a receivership (which could be initiated at the behest of creditors or by the debtor itself). See Cal. Code Civ. Proc. ("CCP") §564(b)(9) (power to appoint receiver to sell property); CCP § 568.5 (receiver empowered to sell property as provided in CCP §§701.510 et seq.); CCP § 701.630 (extinguishment of liens); CCP § 701.680 (binding effect of sale). The judge respectfully disagrees with *In re Hassen Imports P'ship*, 502 B.R. 851, 860 et seq. (C.D. Cal. 2013) (hypothetical foreclosure sale did not qualify under section 363(f)(5)). See generally *In re Catalina Sea Ranch, LLC* (Case No. 2:19-bk-24467-NB), dkt. 122 (approving sale to insider, free and clear of successor liability).

On the other hand, (i) the insider nature of the proposed transaction requires greater scrutiny and (ii) unless the proposed sale is assured of generating funds sufficient to pay a meaningful dividend to nonpriority unsecured creditors, it does not appear appropriate to approve the proposed sale. This Court's reasoning is that, if a sale is a permissible substitute for a plan (under *Braniff, Lionel, Walter, Continental Airlines, Coastal Indus., Abbots Dairies*, etc. - see dkt.83, *passim and especially* pp.2:19-5:4 and 8:1-16:17), then this Court must consider whether the proposed transaction, if embodied in a proposed plan, would fail the tests for confirmation, and whether the proposed transaction would otherwise be contrary to the process and distribution scheme contemplated by the Bankruptcy Code. This approach is consistent with the definition of "cause" to dismiss or convert a case under 11 U.S.C. 1112: if no plan could be confirmed within any

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reasonable time frame, then this Court "shall" convert or dismiss the case. See 11 U.S.C. 1112(b)(4)(J).

The tentative ruling is that, if no meaningful dividend can be assured, then the proposed disposition of Debtor's assets would not satisfy the "fair and equitable" standard for confirmation of any plan, and it would be inappropriate to permit an "end run" around that standard, without even having an opportunity for creditors to vote (because there is no plan), while providing insiders with various benefits from the proposed transaction. In addition, there is insufficient assurance, on such shortened time, that the best interests of creditors test (11 U.S.C. 1129(a)(7)) would not favor a chapter 7 liquidation.

Conversion to chapter 7 would preserve the integrity of the system by enabling an independent investigation and assessment. Specifically, it is possible that a chapter 7 trustee: (w) could either obtain a better sale price from the proposed buyer or competitors, (x) could investigate Debtor's vague assertions that unspecified "problems" (dkt. 59, p.3:20) transformed a business from one that "historically operated at a profit" (*id.*, p.3:19) into one that allegedly "would require significant capital investment before it could even break even" (*id.*, p.4:16-17), (y) could uncover claims against insiders, avoidance actions, or other sources of recoveries, and alternatively (z) could, at the very least, provide greater assurance that all "stones had been turned over" to explore whether the foregoing recoveries were possible.

In other words, the tentative ruling is that it is inappropriate to authorize a sale of substantially all assets, with the benefits and protections to insiders and the buyer of releases and cutting off potential successor liability and other claims, unless a meaningful dividend to nonpriority unsecured creditors can be assured. True, conversion or dismissal of this case might produce *smaller*, not greater, chances of any meaningful recoveries. But the tentative ruling is that the integrity of the system requires either the protections of a chapter 7 trustee or, alternatively, assurance of a meaningful distribution to nonpriority unsecured creditors. Absent the latter, the tentative ruling is that this Court cannot approve the proposed quick, no-voting, no-overbid sale to insiders with releases and a transfer of assets to them free and clear of successor liability.

(b) Plan (dkt. 89)

The tentative ruling is that, although Debtor's Plan is essentially a

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blank slate, the details of which Debtor proposes to supply after the (hoped for) approval of the Sale Motion, that is sufficient under the circumstances. The tentative ruling is not to take any further action with respect to the Plan at this time.

(2) Dates/procedures. This case was filed on 2/5/21.

(a) Bar date: 4/16/21 per General Order 20-01 (70 days after petition date in Subchapter V cases) (DO NOT SERVE any notice: one has already been sent, see dkt.16).

(b) Procedures order: dkt.3 (timely served, dkt.9)

(c) Plan/Disclosure Statement: See Section (1)(b) above.

(d) Continued status conference: 6/15/21 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

LAX In-Flite Services, LLC

Represented By
Jeremy H Rothstein

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Trustee(s):

John-Patrick McGinnis Fritz (TR)

Pro Se

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2:19-11809 Schaefer Ambulance Service, Inc and Logan Deaton

Chapter 11

#11.00 Cont'd hrg re: Motion For Order Of Contempt For Willful Violation Of The Automatic Stay And Plan Injunctions fr. 6/1/21

Docket 727

Tentative Ruling:

Tentative Ruling for 7/20/21:

Please see the tentative ruling for the status conference (Calendar No. 12, 7/20/21 at 1:00 p.m.).

Tentative Ruling for 6/1/21:

Please see the tentative ruling for the status conference (Calendar No. 8, 6/1/21 at 1:00 p.m.).

Party Information

Debtor(s):

Schaefer Ambulance Service, Inc

Represented By
Craig G Margulies
Montserrat Morales

Movant(s):

Schaefer Ambulance Service, Inc

Represented By
Craig G Margulies
Craig G Margulies
Craig G Margulies
Montserrat Morales
Montserrat Morales
Montserrat Morales

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2:19-11809 Schaefer Ambulance Service, Inc and Logan Deaton

Chapter 11

#12.00 Cont'd Status Conference re: Post Confirmation
fr. 02/28/19, 03/12/19, 03/26/19, 04/09/19, 5/21/19,
05/21/19, 06/04/19, 6/18/19, 7/30/19; 08/06/19,
8/20/19, 9/24/19, 10/15/19, 11/5/19, 12/10/19, 12/17/19,
1/14/20, 1/28/20, 02/18/20, 3/10/20, 03/31/20, 4/21/20,
5/2/20, 7/28/20, 9/29/20, 11/10/20, 2/9/21, 5/11/21,
6/1/21

Docket 1

Tentative Ruling:

Tentative Ruling for 7/20/21:

Continue the status conference to 8/17/21 at 1:00 p.m., and take the motion for contempt off calendar, pursuant to the parties' stipulation and status reports. See dkt. 733-737. Appearances are not required on 7/20/21.

No status report is required in advance of the continued status conference.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone**. You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

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Chapter 11

Party Information

Debtor(s):

Schaefer Ambulance Service, Inc

Represented By
Craig G Margulies
Monserrat Morales

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2:21-11720 Jose Angel Rosales

Chapter 11

#13.00 Cont'd hrg re: Motion in Individual Ch 11 Case for Order Employing Professional (LBR 2014-1): Mark Brifman/Brifman Law Corp. as Special Litigation Counsel fr. 6/15/21

Docket 45

Tentative Ruling:

Tentative Ruling for 7/20/21:

Please see the tentative ruling for the status conference (Calendar No. 14, 7/20/21 at 1:00 p.m.).

Tentative Ruling for 6/15/21:

Please see the tentative ruling for the status conference (Calendar No. 4, 6/15/21 at 1:00 p.m.).

Party Information

Debtor(s):

Jose Angel Rosales

Represented By
Nancy Korompis

Movant(s):

Jose Angel Rosales

Represented By
Nancy Korompis
Nancy Korompis
Nancy Korompis
Nancy Korompis
Nancy Korompis
Nancy Korompis

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2:21-11720 Jose Angel Rosales

Chapter 11

#14.00 Cont'd Status Conference re: Chapter 11 Case
fr. 03/23/21, 3/31/21, 4/27/21, 5/11/21, 6/15/21,
6/29/21

Docket 1

Tentative Ruling:

Tentative Ruling for 7/20/21:

Appearances required.

(1) Current issues

(a) Debtor's apparent inability to proceed in chapter 11

In view of this Court's order granting junior lienholder NDF1, LLC's motion for relief from stay (dkt. 86) and based on this Court's review of Debtor's status report (dkt. 90), the tentative ruling is to dismiss this case without further notice, based on this Court's procedures order issued at the inception of this case. See dkt.14 (timely served, dkt. 21, amended by dkt. 22). The grounds for dismissal, under 11 U.S.C. 1112, are as follows.

It appears that Debtor is unable to propose a feasible plan or other path forward. Specifically, Debtor has not provided any math to show that he can afford to pay the roughly \$5,077.54 in proposed plan payments (dkt. 90, pp.9-12), plus living expenses (dkt. 12, pdf pp.25-26), nor does it appear that he could do so, given that his average monthly income for March, April & May 2021 was roughly \$6,080 (see dkt. 55, 75 & 84) and Debtor states that his income will be lower every November-January (dkt. 90, p.4:22-27).

Alternatively, if Debtor seeks to oppose dismissal, the tentative ruling is to continue the status conference as set forth below (see Section (2)(d)) with a **deadline of 7/27/21** for Debtor to file and serve on all creditors (i) a copy of this tentative ruling and (ii) supplemental papers addressing the issues set forth above.

(b) Debtor's Application to employ special litigation counsel (dkt. 45, "Employment Application"), Order setting hearing on Employment Application (dkt. 67), Notice of hearing (dkt. 71), late Response and Application for relief from deadline (dkt. 76, 77)

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For the reasons set forth above, the tentative ruling is to deny the Employment Application without prejudice.

Proposed order: Debtor is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

(c) Monthly Operating Reports ("MOR")

As of the preparation of this tentative ruling, Debtor has not filed his June MOR. The tentative ruling is that this provides an additional ground to dismiss this case.

(2) Dates/procedures. This case was filed on 3/3/21.

(a) Bar date: 6/16/21 (dkt. 35; timely served, dkt. 44)

(b) Procedures order: dkt.14 (timely served, dkt. 21, amended by dkt. 22)

(c) Plan/Disclosure Statement: N/A.

(d) Continued status conference: *If* this case is not dismissed, continue to 8/17/21 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone.** You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the

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posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 6/29/21:

Appearances required.

(1) Current issues

(a) NDF1, LLC's motion for relief from stay (dkt. 73), Debtor's opposition (dkt. 78), no reply is on file

There is no tentative ruling, but the parties should be prepared to address whether they will agree to the terms of an adequate protection order (see Debtor's opposition, dkt. 78).

(b) Monthly Operating Reports ("MOR")

As of the preparation of this tentative ruling, Debtor has not filed his May MOR. Why not?

(2) Dates/procedures. This case was filed on 3/3/21.

(a) Bar date: 6/16/21 (dkt. 35; timely served, dkt. 44)

(b) Procedures order: dkt.14 (timely served, dkt. 21, amended by dkt. 22)

(c) Plan/Disclosure Statement: 7/6/21 or 9/3/21 (See dkt. 79). See the **revised** "Procedures of Judge Bason" (available at www.cacb.uscourts.gov) (search for "Chapter 11: Plan").

(d) Continued status conference: 7/20/21 at 1:00 p.m., concurrent with other matters. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov

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instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 6/15/21:

Continue as set forth below. Appearances are not required on 6/15/21.

(1) Current issues

(A) Debtor's Application to employ special litigation counsel (dkt. 45, "Employment Application"), Order setting hearing on Employment Application (dkt. 67), Notice of hearing (dkt. 71), late Response and Application for relief from deadline (dkt. 76, 77)

Debtor's very belated response (dkt. 76) refers vaguely to "conflicting trial, vacation/holiday and travel schedules" that "delayed" the ability of Debtor's general bankruptcy counsel and proposed special counsel filing the response due 6/1/21 until the night of 6/11/21. Dkt.77, p.5:18-24. That is too vague an excuse, and counsel for Debtor is cautioned that in future she must request any extension *before* the deadline has expired, or alternatively provide an *adequate* excuse for being unable to do so.

Nevertheless, the tentative ruling is to excuse Debtor's non-compliance with this Court' prior deadline and provide Debtor with an opportunity to address the following issues. As this Court understands Debtor's position, he alleges that he entered into a modification of the first deed of trust ("DOT") on his home based on his understanding that the second DOT (a HELOC) had been canceled or otherwise forgiven, and Debtor paid the first DOT for "ten years" in reliance on the absence of the second DOT, but instead the HELOC turns out to be a "zombie" loan. See dkt. 29, p.2, and dkt.76, p.3:10-21. While Debtor was paying the first DOT, the second DOT obligation of "approximately \$150,000 grew to nearly \$300,000." *Id.*

Debtor now proposes to spend up to an estimated \$40,000 to attempt to obtain cancellation of some or all of the debt secured by the second DOT. *Id.* On the one hand, that appears to be admirably efficient for this type of litigation, and if the litigation is successful then it could generate a substantial net benefit for Debtor.

On the other hand, creditors appear to be the losers in this scenario. Debtor proposes to spend up to \$40,000 or more to litigate undisclosed legal

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theories that might have zero or minimal chance of success; and even if Debtor succeeds he will gain equity in his home that, presumably, he will seek to exempt. If Debtor's cash flow is used to fund this litigation, it appears that he will have little if anything left over to pay creditors (although it is unclear whether Debtor can obtain more monthly income by increasing his "draw" from his business). See bankruptcy schedules "I" & "J" (dkt.12, pp.23-26, and dkt.46, pp.2-4).

A review of the dollars at issue will illustrate. Debtor's amended bankruptcy schedule "D" lists the value of the home as \$750,000 encumbered by a first DOT of \$420,000 and a second DOT of \$305,000. See dkt.12 at PDF pp.15-16, items 2.3 & 2.4. If, for example, Debtor spends \$40,000 and obtains exempt equity of \$150,000, then creditors will have lost out of \$40,000 and will gain nothing in return.

It is possible that Debtor will propose a chapter 11 plan that adequately discloses the cost/benefit analysis and would share some of the net benefits of any success, or that would otherwise be a suitable use of the bankruptcy system. Such a plan could include full disclosure of the legal theories underlying Debtor's proposed litigation, so that creditors could make their own assessment of the cost/benefit of Debtor's proposed course of action, and if they vote in favor of continuing Debtor's litigation then presumably the plan could be confirmed. Otherwise, Debtor might have to pursue other alternative.

Based on all of the foregoing, the tentative ruling is to continue the hearing on the motion to employ special counsel to 7/20/21 at 1:00 p.m. with a **deadline of 7/6/21** for Debtor either to file (and NOT serve on anyone except the United States Trustee and anyone requesting special notice) a chapter 11 plan and disclosure statement that explains why the proposed litigation is a good idea for creditors to vote for, or alternatively for Debtor to file (and serve on the same persons) a brief and supporting declaration(s) addressing the issues set forth above (in which event the deadline to file a draft plan and disclosure statement would remain at 9/3/21, as previously set by this Court).

(2) Dates/procedures. This case was filed on 3/3/21.

(a) Bar date: 6/16/21 (dkt. 35; timely served, dkt. 44)

(b) Procedures order: dkt.14 (timely served, dkt. 21, amended by dkt.

22)

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(c) Plan/Disclosure Statement: see above. See the **revised** "Procedures of Judge Bason" (available at www.cacb.uscourts.gov) (search for "Chapter 11: Plan").

(d) Continued status conference: 6/29/21 at 1:00 p.m., concurrent with other matters. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Jose Angel Rosales

Represented By
Nancy Korompis

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2:20-11333 Edmund Lincoln Anderson

Chapter 11

#15.00 Cont'd hrg re: Motion for Order Disallowing the 2014 Assessment for the Tax Year 2009 Set Forth in Proof of Claim Number 5 of the United States of America Internal Revenue Service Pursuant to FRBP 3001(c), 11 U.S.C. Section 502(b)(1) fr. 8/18/20, 11/03/20, 1/5/21, 2/9/21

Docket 155

Tentative Ruling:

Tentative Ruling for 7/20/21:

Please see the tentative ruling for the status conference (Calendar No. 16, 7/20/21 at 1:00 p.m.).

Tentative Ruling for 2/9/21:

Please see the tentative ruling for the status conference (Calendar No. 10, 2/9/21 at 1:00 p.m.).

Tentative Ruling for 1/5/21:

Please see the tentative ruling for the status conference (Calendar No. 8, 1/5/21 at 1:00 p.m.).

Party Information

Debtor(s):

Edmund Lincoln Anderson

Represented By
Stella A Havkin

Movant(s):

Edmund Lincoln Anderson

Represented By
Stella A Havkin

Trustee(s):

John P Pringle (TR)

Represented By
Toan B Chung

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 20, 2021

Hearing Room 1545

1:00 PM

2:20-11333 Edmund Lincoln Anderson

Chapter 11

#16.00 Pretrial Conference re: Chapter 11 Case
fr. 3/3/20, 3/10/20, 4/7/20, 4/21/20, 6/2/20, 7/14/20,
7/28/20, 8/18/20, 9/1/20, 10/6/20, 10/27/20, 12/1/20,
1/5/21, 2/9/21, 03/02/21, 3/23/21, 4/27/21, 5/11/21,
6/1/21, 6/15/21

Docket 1

Tentative Ruling:

Tentative Ruling for 7/20/21:

Appearances required.

(1) Current issues

(a) Pretrial Conference on Debtor's Motion for Order Disallowing the 2014 Assessment for the Tax Year 2009 Set Forth in Proof of Claim Number 5 (dkt. 155); Opposition of the Internal Revenue Service ("IRS") (dkt. 268); Debtor's Reply (dkt. 269); Scheduling Order (dkt. 284); Stipulation Amending Scheduling Order and Order Thereon (dkt. 332, 334); Pre-Trial Stipulation (dkt. 382)

The tentative ruling is to approve the pre-trial stipulation and direct the parties to address what deadline to set for motions *in limine*. In addition, based on an inquiry from chambers, the parties have reported that they intend to proceed with trial in person, with masks if required by the Court. The tentative ruling is to proceed in that manner.

Proposed order: Debtor is directed to lodge a proposed order regarding the foregoing issues via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Note: This Court notes that a Chapter 11 Trustee has been appointed. See dkt. 370, 374. This Court has considered whether that deprives Debtor of standing to prosecute the claim objection, but the tentative ruling is that Debtor has standing in view of (i) potential nondischargeability issues, (ii) potential solevency issues, and (iii) the lack of any objection by the Trustee.

(2) Deadlines/dates. This case was filed on 2/6/20.

(a) Bar date: 5/1/20 (dkt. 50; timely served, dkt. 55).

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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1:00 PM

CONT...

Edmund Lincoln Anderson

Chapter 11

(b) Procedures order: dkt. 7 (timely served, dkt.8)

(c) Plan/Disclosure Statement (dkt. 251, 250)*: TBD.

(d) Continued status conference: 8/4/21 at 10:00 a.m., concurrently with the trial set for that date. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone**. You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Edmund Lincoln Anderson

Represented By
Stella A Havkin

Trustee(s):

John P Pringle (TR)

Represented By
Toan B Chung

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 20, 2021

Hearing Room 1545

2:00 PM

2:19-23664 Liat Talasazan

Chapter 7

#1.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 3/2/21, 5/11/21, 6/29/21

MICHAEL TREMBLAY, trustee
vs
DEBTOR

Docket 504

Tentative Ruling:

Tentative Ruling for 7/20/21:

Please see the tentative ruling for the status conference (Calendar No. 4, 7/20/21 at 2:00 p.m.).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Liat Talasazan

Represented By
Giovanni Orantes
Luis A Solorzano

Movant(s):

Michael Tremblay, Trustee

Represented By
David I Brownstein

Trustee(s):

Caroline Renee Djang (TR)

Represented By
David Wood

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 20, 2021

Hearing Room 1545

2:00 PM

2:19-23664 Liat Talasazan

Chapter 7

#2.00 Cont'd hrg re: Motion for Turnover of Property of the Estate
Pursuant to 11 U.S.C. § 542 35th Street Properties
fr 3/23/21, 4/6/21, 4/27/21, 5/11/21, 6/29/21

Docket 543

Tentative Ruling:

Tentative Ruling for 7/20/21:

Please see the tentative ruling for the status conference (Calendar No. 4,
7/20/21 at 2:00 p.m.).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Liat Talasazan

Represented By
Giovanni Orantes
Luis A Solorzano

Trustee(s):

Caroline Renee Djang (TR)

Represented By
David Wood

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 20, 2021

Hearing Room 1545

2:00 PM

2:19-23664 Liat Talasazan

Chapter 7

#3.00 Cont'd hrg re: Trustee's Motion for Order Authorizing Sale of Real Property [636 N. Laurel Avenue, Los Angeles, CA 90048]: (A) Outside the Ordinary Course of Business; (B) Free and Clear of Liens; (C) Subject to Overbids and (D) For Determination of Good Faith Purchasers Under Section 363(m) fr. 5/11/21, 5/20/21, 6/29/21

Docket 588

Tentative Ruling:

Tentative Ruling for 7/20/21:

Please see the tentative ruling for the status conference (Calendar No. 4, 7/20/21 at 2:00 p.m.).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Liat Talasazan

Represented By
Giovanni Orantes
Luis A Solorzano

Trustee(s):

Caroline Renee Djang (TR)

Represented By
David Wood

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 20, 2021

Hearing Room 1545

2:00 PM

2:19-23664 Liat Talasazan

Chapter 7

#4.00 Cont'd Status Conference re: Chapter 7 Case
fr. 1/28/20, 2/18/20, 3/3/20, 3/10/20, 03/31/20,
4/7/20, 5/12/20, 5/19/20, 6/2/20, 6/16/20, 7/28/20,
8/18/20, 9/1/20, 9/15/20, 9/29/20, 10/27/20, 12/1/20,
12/22/20, 2/9/21, 03/02/21, 3/23/21, 4/6/21, 5/11/21,
6/29/21

Docket 49

Tentative Ruling:

Tentative Ruling for 7/20/21:
Appearances required.

(1) Current issues

(a) Chapter 7 Trustee's Motion to sell Laurel Property (dkt. 588, 589, 590), Celtic Bank's response (dkt. 594), Oxygen Funding's response (dkt. 595), East West Bank's response (dkt. 598), Tremblay subordination stipulation and order (dkt. 599, 600), Stipulation and order approving debtor's waiver of homestead exemption (dkt. 603, 605), Trustee's omnibus reply (dkt. 606), supplemental papers (dkt. 611-613), and stipulation with Celtic Bank (dkt. 617), supplemental buyer declarations (dkt. 651, 652)

See below.

(b) Subchapter V Trustee's Motion for turnover of 35th Street Properties, accounting re Jefferson property, etc. (dkt. 543, 544), Debtor's response (dkt. 562), Oxygen's joinder (dkt. 568), Subchapter V Trustee's reply (dkt. 569, 570), Order granting motion (dkt. 578)

See below.

(c) Tremblay's motion for relief from stay (dkt. 504), Order denying in substantial part and granting limited relief (dkt. 559), Tremblay's status report (dkt. 583)

See below.

(d) All pending matters

**United States Bankruptcy Court
Central District of California
Los Angeles
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Hearing Room 1545

2:00 PM

CONT...

Liat Talasazan

Chapter 7

This Court has reviewed the supplemental buyer declarations (dkt. 651, 652) and will address with the parties the current status and future proceedings.

(2) Deadlines/dates. This case was filed on 11/20/19, converted from chapter 13 to chapter 11 on 1/2/20, designated by Debtor as a Subchapter V case on 3/2/20 (dkt.128), and converted to chapter 7 on 12/1/20 (dkt. 412).

(a) Continued status conference: 8/31/21 at 2:00 p.m. *Brief* status report due 8/17/21.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone**. You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED (see Memorialization of Tentative Rulings, dkt.208 (filed 5/19/20) and dkt.303 (filed 9/21/20). See also Order Denying Motion for Stay (dkt.441, as amended by dkt.442).]

Party Information

Debtor(s):

Liat Talasazan

Represented By
Giovanni Orantes
Luis A Solorzano

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 20, 2021

Hearing Room 1545

2:00 PM

CONT... Liat Talasazan

Chapter 7

Trustee(s):

Caroline Renee Djang (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 20, 2021

Hearing Room 1545

2:00 PM

2:18-24302 GL Master Inc

Chapter 7

Adv#: 2:20-01678 Wolkowitz v. Hot Pot Austin LLC

#5.00 Hrg re: Plaintiff's Motion For Default Judgment Under LBR 7055-1

Docket 9

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 6, 7/20/21 at 2:00 p.m.).

Party Information

Debtor(s):

GL Master Inc

Represented By
Thomas J Polis

Defendant(s):

Hot Pot Austin LLC

Pro Se

Plaintiff(s):

Edward M. Wolkowitz

Represented By
Juliet Y Oh
Richard P Steelman Jr

Trustee(s):

Edward M Wolkowitz (TR)

Represented By
Juliet Y Oh

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 20, 2021

Hearing Room 1545

2:00 PM

2:18-24302 GL Master Inc

Chapter 7

Adv#: 2:20-01678 Wolkowitz v. Hot Pot Austin LLC

#6.00 Cont'd Status Conference re: Complaint for Avoidance and Recovery of Preferential Transfers [11 U.S.C. Sections 547(b), 550(a), and 551] fr. 2/9/21, 5/4/21, 6/29/21

Docket 1

Tentative Ruling:

Tentative Ruling for 7/20/21:

Appearances are not required on 7/20/21.

(1) Current issues

(a) Plaintiff/Trustee's motion for default judgment (adv. dkt. 9, 10), no opposition is on file

The tentative ruling is to grant the motion and enter default judgment against Defendant Hot Pot Austin LLC as set forth therein, which will resolve this adversary proceeding in its entirety without the need for a future status conference.

Proposed order: Plaintiff/Trustee is directed to lodge a proposed judgment via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone**. You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 20, 2021

Hearing Room 1545

2:00 PM

CONT...

GL Master Inc

Chapter 7

or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

GL Master Inc

Represented By
Thomas J Polis

Defendant(s):

Hot Pot Austin LLC

Pro Se

Plaintiff(s):

Edward M. Wolkowitz

Represented By
Juliet Y Oh
Richard P Steelman Jr

Trustee(s):

Edward M Wolkowitz (TR)

Represented By
Juliet Y Oh

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 20, 2021

Hearing Room 1545

2:00 PM

2:18-24302 GL Master Inc

Chapter 7

Adv#: 2:20-01680 Wolkowitz v. The Law Offices of Lynn Chao, A.P.C.,a California

#7.00 Cont'd status conference re: Complaint for avoidance and recovery of preferential transfers [11 U.S.C. sections 547(b), 550(a), and 551] fr. 2/9/21, 5/4/21

Docket 1

Tentative Ruling:

Tentative Ruling for 7/20/21:

Continue as set forth below. Appearances are not required on 7/20/21.

(A) Current issues

This Court has reviewed the parties' joint status report (adv. dkt. 11) and the other filed documents and records in this adversary proceeding.

(B) Standard requirements

The following are Judge Bason's standard requirements for status conferences (except as noted below). (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (adv. dkt. 9, p. 4, para. "(F)").

(2) Mediation

[Non-standard provision.] The tentative ruling is not to order mediation at this time, for the reasons stated in this Court's 5/4/21 tentative ruling (copied below).

(3) Deadlines

This adversary proceeding has been pending since 12/7/20. The deadlines have been memorialized in this Court's scheduling order (adv. dkt. 7), except for the following. The tentative ruling is to direct Plaintiff/Trustee to

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2:00 PM

CONT... **GL Master Inc**

Chapter 7

lodge a supplemental scheduling order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Joint Status Report: 9/14/21

Continued status conference: 9/28/21 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: 11/2/21

Pretrial conference: 11/16/21 at 2:00 p.m.

Trial commencement: This Court has not yet finalized its hearing dates for 2022, but anticipates setting a trial date at the continued status conference for sometime in January/February 2022.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone**. You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 5/4/21:

Continue as set forth below. Appearances are not required on 5/4/21.

(A) Current issues

This Court has reviewed the parties' joint status report (adv. dkt. 9) and the other filed documents and records in this adversary proceeding.

(B) Standard requirements

The following are Judge Bason's standard requirements for status conferences (except as noted below). (To the extent that the parties have

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 20, 2021

Hearing Room 1545

2:00 PM

CONT... **GL Master Inc**

Chapter 7

already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (adv. dkt. 9, p. 4, para. "(F)").

(2) Mediation

[Non-standard provision.] The tentative ruling is not to order mediation at this time. This Court recognizes that the parties both expressed an interest in mediation as of the filing of that status report (adv. dkt. 14) on 4/19/21. But thereafter, in connection with more global mediation, The Law Offices of Lynn Chao, APC ("ChaoLaw") did not reach any settlement, and ChaoLaw faces ongoing contempt sanctions regarding discovery in a related proceeding in this case. Accordingly, it appears that ordering ChaoLaw to mediation in this adversary proceeding likely would be a waste of time and money.

(3) Deadlines

This adversary proceeding has been pending since 12/7/20. [The deadlines have been memorialized in this Court's scheduling order (adv. dkt. 7), except for the following, which need no written order.]

Joint Status Report: 7/6/21

Continued status conference: 7/20/21 at 11:00 a.m.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULING OMITTED]

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 20, 2021

Hearing Room 1545

2:00 PM

CONT... GL Master Inc

Chapter 7

Party Information

Debtor(s):

GL Master Inc

Represented By
Thomas J Polis

Defendant(s):

The Law Offices of Lynn Chao,

Pro Se

Plaintiff(s):

Edward M. Wolkowitz

Represented By
Juliet Y Oh
Richard P Steelman Jr

Trustee(s):

Edward M Wolkowitz (TR)

Represented By
Juliet Y Oh

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 20, 2021

Hearing Room 1545

2:00 PM

2:18-24302 GL Master Inc

Chapter 7

Adv#: 2:20-01683 Wolkowitz v. Young Young Food, LLC

#8.00 Cont'd Status Conference re: Complaint for Avoidance and Recovery of Preferential Transfers [11 U.S.C. Sections 547(b), 550(a) and 551] fr. 2/9/21, 5/4/21

Docket 1

Tentative Ruling:

Tentative Ruling for 7/20/21:

Continue as set forth below. Appearances are not required on 7/20/21.

(A) Current issues

This Court has reviewed the parties' joint status report (adv. dkt. 11) and the other filed documents and records in this adversary proceeding.

(B) Standard requirements

The following are Judge Bason's standard requirements for status conferences (except as noted below). (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (adv. dkt. 9, p. 4, para. "(F)").

(2) Mediation

[Non-standard provision.] The tentative ruling is not to order mediation at this time, for the reasons stated in this Court's 5/4/21 tentative ruling (copied below).

(3) Deadlines

This adversary proceeding has been pending since 12/7/20. The deadlines have been memorialized in this Court's scheduling order (adv. dkt. 7), except for the following. The tentative ruling is to direct Plaintiff/Trustee to lodge a supplemental scheduling order via LOU within 7 days after the

**United States Bankruptcy Court
Central District of California
Los Angeles
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CONT...

GL Master Inc

Chapter 7

hearing date. See LBR 9021-1(b)(1)(B).

Joint Status Report: 9/14/21

Continued status conference: 9/28/21 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: 11/2/21

Pretrial conference: 11/16/21 at 2:00 p.m.

Trial commencement: This Court has not yet finalized its hearing dates for 2022, but anticipates setting a trial date at the continued status conference for sometime in January/February 2022.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone**. You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 5/4/21:

Continue as set forth below. Appearances are not required on 5/4/21.

(A) Current issues

This Court has reviewed the parties' joint status report (adv. dkt. 9) and the other filed documents and records in this adversary proceeding.

(B) Standard requirements

The following are Judge Bason's standard requirements for status conferences (except as noted below). (To the extent that the parties have already addressed these issues in their status report, they need not repeat

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, July 20, 2021

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CONT... **GL Master Inc**

Chapter 7

their positions at the status conference.)

(1) Venue/jurisdiction/authority

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (adv. dkt. 9, p. 4, para. "(F)").

(2) Mediation

[Non-standard provision.] The tentative ruling is not to order mediation at this time. This Court recognizes that the parties both expressed an interest in mediation as of the filing of that status report on 4/19/21. But thereafter defendant Young Young Food, LLC ("YYF") failed to appear at a hearing on 4/27/21 on a motion regarding contempt sanctions regarding discovery in a related proceeding in this case. Accordingly, it appears that ordering YYF to mediation in this adversary proceeding likely would be a waste of time and money.

(3) Deadlines

This adversary proceeding has been pending since 12/7/20. [The deadlines have been memorialized in this Court's scheduling order (adv. dkt. 7), except for the following, which need no written order.]

Joint Status Report: 7/6/21

Continued status conference: 7/20/21 at 11:00 a.m.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULING OMITTED]

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, July 20, 2021

Hearing Room 1545

2:00 PM

CONT...

GL Master Inc

Chapter 7

Party Information

Debtor(s):

GL Master Inc

Represented By
Thomas J Polis

Defendant(s):

Young Young Food, LLC

Pro Se

Plaintiff(s):

Edward M. Wolkowitz

Represented By
Juliet Y Oh
Richard P Steelman Jr

Trustee(s):

Edward M Wolkowitz (TR)

Represented By
Juliet Y Oh

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, July 20, 2021

Hearing Room 1545

2:00 PM

2:18-24302 GL Master Inc

Chapter 7

#9.00 Cont'd Order to Show Cause re: Civil Contempt Against Young Young Food LLC, and For Sanctions fr. 10/27/20, 12/1/20, 12/22/20, 1/5/21, 1/26/21, 4/27/21, 5/11/21, 6/1/21, 6/15/21

Docket 213

Tentative Ruling:

Tentative Ruling for 7/20/21:

Appearances required.

(1) Current issues

(a) YYF Contempt/Sanctions Order (dkt. 289)

This Court may issue a tentative ruling prior to the hearing. The parties are directed to check the posted tentative rulings and the docket.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone.** You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED. See dkt. 253, 289 (sanctions v. Young Young Foods) and dkt. 276, 291 (sanctions v. Debtor, ChaoLaw, etc.).]

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 20, 2021

Hearing Room 1545

2:00 PM

CONT...

GL Master Inc

Chapter 7

Party Information

Debtor(s):

GL Master Inc

Represented By
Thomas J Polis

Trustee(s):

Edward M Wolkowitz (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 20, 2021

Hearing Room 1545

2:00 PM

2:18-24302 GL Master Inc

Chapter 7

#10.00 Second Cont'd Evidentiary Hrg re: Order to Show Cause re: Civil Contempt and Directing (i) Debtor, (ii) Freda Wang, (iii) Thomas Polis, (iv) Lynn Chao, (v) The Law Offices of Lynn Chao to Appear and Show Cause Why This Court Should Not Find Them in Contempt and Impose Sanctions fr. 8/19/20, 9/17/20, 11/3/20, 12/1/20, 12/22/20, 1/5/21, 1/26/21, 4/27/21, 5/11/21, 06/01/21, 6/15/21

Docket 173

Tentative Ruling:

Tentative Ruling for 7/20/21:
Appearances required.

(1) Current issues

This Court may issue a tentative ruling prior to the hearing. The parties are directed to check the posted tentative rulings and the docket.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone.** You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

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Tuesday, July 20, 2021

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2:00 PM

CONT... GL Master Inc

Chapter 7

[PRIOR TENTATIVE RULINGS OMITTED. See dkt. 253, 289 (sanctions v. Young Young Foods) and dkt. 276, 291 (sanctions v. Debtor, ChaoLaw, etc.).]

Party Information

Debtor(s):

GL Master Inc

Represented By
Thomas J Polis

Trustee(s):

Edward M Wolkowitz (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 20, 2021

Hearing Room 1545

2:00 PM

2:18-12429 Dana Hollister

Chapter 11

#11.00 Cont'd Status Conference re: Chapter 11 Case
fr. 3/9/18, 3/20/18, 3/21/18, 4/17/18, 5/3/18, 5/7/18,
6/12/18, 6/22/18, 7/16/18, 8/3/18, 9/4/18, 11/6/18,
01/15/19, 1/29/19, 2/26/19, 3/26/19, 4/16/19;
04/29/19, 05/21/19, 5/28/19, 6/18/19, 7/2/19; 08/06/19,
10/15/19, 11/12/19, 11/21/19, 01/14/20, 3/3/20, 3/10/20,
04/07/20, 5/19/20, 6/16/20, 6/30/20, 7/14/20, 7/28/20,
8/4/20, 09/15/20, 10/27/20, 12/08/20, 1/21/21, 02/25/21,
3/23/21, 4/27/21, 6/1/21, 6/15/21, 7/8/21

Docket 1

Tentative Ruling:

Tentative Ruling for 7/20/21:

Continue as set forth below. Appearances are not required on 7/20/21.

(1) Current issues

This Court has no issues to raise *sua sponte* at this time.

(2) Deadlines/dates. This case was filed on 3/6/18.

(a) Bar date: 8/24/18 (dkt. 367, timely served per dkt. 383)

(b) Plan/Disclosure Statement: TBD. See the **revised** "Procedures of Judge Bason" (available at www.cacb.uscourts.gov) (search for "Chapter 11: Plan").

(c) Continued status conference: 8/18/21 at 9:00 a.m. to be held contemporaneous with the trial on Bobs' R/S Motion. No written status report required. (But Pre-Trial Stipulation is due 8/9/21, and Pre-Trial Briefs and Motions in Limine, if any, are due 8/13/21, per Scheduling Order, dkt.1419).

(d) Limited Notice: A "Core Service List" has been established (see dkt.97, p.3:4-17, dkt.195), as modified by any updates (contact Debtor for latest list).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, July 20, 2021

Hearing Room 1545

2:00 PM

CONT...

Dana Hollister

Chapter 11

required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone**. You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED (for principal issues, see dkt. 238, 239, 528, 547, 557, 1330, 1382-83, 1410)]

Party Information

Debtor(s):

Dana Hollister

Represented By
David A Tilem
Mark A Kressel
Alan M Insul

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, July 22, 2021

Hearing Room 1545

8:00 AM
2:00-00000

Chapter

- #1.00 Hearings in Judge Bason's courtroom (1545) are now **simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone.** You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. ZoomGov appearances are free.

ZoomGov Instructions for all matters on today's calendar:

Meeting ID: 160 733 8868

Password: 051519

Meeting URL: <https://cacb.zoomgov.com/j/1607338868>

Telephone: +1 669 254 5252 or +1 646 828 7666 or 833 568 8864 (Toll Free)

Please connect at least 5 minutes before the start of your hearing, and wait with your microphone muted until your matter is called.

CHAPTER 13: Persons needing to contact the Chapter 13 Trustee's attorney, either prior to the hearing or during a recess, can call Kaleen Murphy, Esq. at (213) 996-4433.

Docket 0

Tentative Ruling:

Note: The tentative rulings were posted on 7/21/21 at approximately 12:16 p.m., except as noted.

**United States Bankruptcy Court
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Thursday, July 22, 2021

Hearing Room 1545

8:30 AM

2:21-11129 Carmen Zazueta Montalvan

Chapter 13

#1.00 Hrg re: Motion to Avoid Lien Judicial
with Stohlman & Rogers, Inc., dba
Lakeview Petroleum

Docket 40

Tentative Ruling:

Appearances are not required.

The tentative ruling is to grant the motion for the reasons set forth in the motion and Debtor's reply, and the fact that even supposing the initial service was insufficient, (a) Debtor subsequently appears to have served the respondent in the fashion that respondent suggests is required, and (b) this Court has discretion to shorten time under Rule 9006 (Fed. R. Bankr. P.) such that the subsequent service is timely, and it appears appropriate to shorten time because (i) respondent has not alleged any defense on the merits or any actual prejudice arising from not having been served in the manner it argues was required, and (ii) continuing this hearing (so that time would not have to be shortened) would not appear to accomplish anything except increasing the expense and time spent by both parties.

Proposed order: Debtor is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via**

**United States Bankruptcy Court
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Los Angeles
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Thursday, July 22, 2021

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8:30 AM

CONT... Carmen Zazueta Montalvan

Chapter 13

ZOOMGOV telephone. You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Carmen Zazueta Montalvan

Represented By
Jeffrey J Hagen

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Thursday, July 22, 2021

Hearing Room 1545

8:30 AM

2:21-13872 Demestrice Spencer

Chapter 13

#2.00 Hrg re: Motion for Order Determining Value of Collateral
[11 U.S.C. §506(a), FRBP 3012)

Docket 19

Tentative Ruling:

Continue to 9/9/21 at 8:30 a.m. to address the following issues. Appearances are not required on 7/22/21.

Reasons:

Appraisal; date of valuation. The junior lienholder has requested (dkt. 25) additional time to obtain an appraisal. Debtor is directed to provide reasonable access for that purpose. The junior lienholder is directed to file and serve the appraisal at least 14 days before the continued hearing. Note: Judge Bason's tentative ruling is to require valuations *at or near the petition date*. See *In re Gutierrez*, 503 B.R. 458 (Bankr. C.D. Cal. 2013).

At the continued hearing the parties should address how they propose to resolve their disputes - e.g., (i) with an evidentiary hearing; (ii) with a court ruling based solely on the written record (to save costs, if all parties consent), (iii) through mediation, or (iv) through appointment of an appraiser (jointly selected by the parties/their appraisers) as the court's own expert under FRE 706.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone.** You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval

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8:30 AM

CONT... Demestrice Spencer

Chapter 13

or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Demestrice Spencer

Represented By
Michael D Franco

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Thursday, July 22, 2021

Hearing Room 1545

8:30 AM

2:18-14962 Alfredo Gonzalez Carrillo

Chapter 13

#3.00 Hrg re: Motion for Suggestion of Death; for Substitution as the Representative for or Successor to the Deceased Debtor; and for Continued Administration of the Case

Docket 40

Tentative Ruling:

Appearances are not required.

Grant.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone.** You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Alfredo Gonzalez Carrillo

Represented By

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Hearing Room 1545

8:30 AM

CONT... Alfredo Gonzalez Carrillo

L. Tegan Rodkey

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Thursday, July 22, 2021

Hearing Room 1545

8:30 AM

2:21-10907 Martin G Torres

Chapter 13

#4.00 Hrg re: Motion Objecting to Claim No 1-1 on the Bankruptcy Court's Claims Register of Trinity Financial Services LLC, Request Claim to be Disallowed

Docket 29

Tentative Ruling:

Statement re Revised Tentative Ruling for 7/22/21:

The only revision to the tentative ruling posted on 7/21/21 at approximately 12:16 p.m. is to add the word "not" (emphasized below) in the following excerpt from part "(5)" of the tentative ruling:

True, it is possible that other paragraphs of section 1632(b) might apply. See, e.g., section 1632(b)(4) ("Notwithstanding paragraph (2), ..."). But Debtor does not argue the application of any such other paragraphs. [Emphasis added.]

Revised Tentative Ruling for 7/22/21:

Appearances required.

(1) Background

The facts are not entirely clear, but they appear to be as follows. Debtor obtained what he allegedly thought was a single loan from First Magnus Financial Corporation ("Magnus"). In fact, the loan documents apparently reflected two loans from Magnus: one secured by a first lien, which Debtor has been paying, and another loan secured by a second lien, for which Debtor was never sent monthly statements or other communications, and on which he made no monthly payments for many years.

More recently, the successor in interest as holder of the junior loan, Trinity Financial Services, LLC ("Trinity"), has initiated collection efforts. Debtor attempted to enter into a loan modification, and made three payments of \$600.00 as part of that attempt, but no loan modification was made and Trinity initiated foreclosure proceedings.

Debtor filed this bankruptcy case to stop the foreclosure and address his financial obligations. Debtor has now objected to Trinity's claim.

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CONT... Martin G Torres

Chapter 13

(2) An adversary proceeding may be required, because of some of the arguments in the claim objection

Trinity asserts (dkt. 34, pp.1:24-25 and 3:16-22) that Debtor's claim objection must be brought in the form of an adversary proceeding, and Trinity asserts that it has been prejudiced by not having the amount of time to respond that it would have in an adversary proceeding. Trinity appears to be correct that an adversary proceeding is required.

Trinity argues that the objection seeks "to determine the validity, priority, or extent of a lien or other interest in property" within the meaning of Rule 7001(2) (Fed. R. Bankr. P.) (emphasis added). As Trinity points out, no party in interest may "include a demand for relief of a kind specified in Rule 7001 in an objection to the allowance of a claim, but may include the objection in an adversary proceeding." Rule 3007(b) (Fed. R. Bankr. P.).

On the one hand, *most* of Debtor's arguments focus on the promissory note held by Trinity, not its lien, so those portions of Debtor's claim objection would not appear, by themselves, to require any adversary proceeding. On the other hand, part of Debtor's claim objection argues that the lien securing the promissory note has been "extinguished by the lapse of time" (dkt. 29, p.7:14) and that enforcement of any power of sale "is barred by the Statute of Limitations." *Id.*, p.8:20-21. The latter arguments do appear to challenge the "validity" of the lien and therefore, if Debtor presses forward with those arguments, an adversary proceeding appears to be required.

(3) It is unclear whether Debtor will proceed with the arguments challenging the validity of the lien, so an adversary proceeding might not be required

Debtor's arguments for a time bar appear to rest on the assumption that the "last transaction and payment occurred on December 7, 2006, well past the [alleged statute of limitations period]." Claim Obj. (dkt. 29), p.9:7-9. But, according to Trinity, Debtor made three payments of \$600.00 each, received on June 3, 2020, June 29, 2020, and July 28, 2020, "as part of an unsuccessful loan modification application." Trinity Resp. (dkt. 34), p.2:5-8 and attached Madden Decl. para.4.

Therefore, it appears that Debtor the time bar arguments might be moot, unless Debtor can amend his arguments to address why those three \$600.00 payments should not count. In other words, on the present record, it appears that there is a possibility that no adversary proceeding will be required. For that reason, and for the sake of completeness, this tentative

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CONT... Martin G Torres

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ruling proceeds to address the parties' other arguments.

(4) Burden of proof

Regarding burdens of proof, the parties are referred to prior decisions discussing the shifting burdens. See *In re Orozco*, 2017 WL 3126797 (Bankr. C.D. Cal.) (Case No. 2:13-bk-15745-NB, dkt. 132), and *In re Beoglyan* (Case No. 2:13-bk-22883-NB, dkt. 141).

(5) The California Translation Act appears to be applicable, but Debtor appears not to have any feasible remedy under that act

Debtor alleges that the loan was negotiated in Spanish but he was not provided with a Spanish translation of the loan documents. He argues that this violated the California Translation Act (Cal. Civ. C. 1632 et seq.). See Objection (dkt. 29), pp. 4:1-5:10.

Trinity responds that this act "specifically exempts loan transactions secured by real property. See California Civil Code Section 1632(a)(2) [sic]." Trinity Resp. (dkt. 34), p.2:19-22. Trinity apparently means section 1632(b)(2) (section 1632(a)(2) contains legislative findings of fact about the diversity of languages in California).

Section 1632(b) provides that any person engaged in a business who negotiates various types of contracts or agreements primarily in Spanish shall deliver to the counterparty (Debtor) "a translation of the contract or agreement" in Spanish. One such type of contract or agreement is for a loan "secured other than by real property." Section 1632(b)(2) (emphasis added).

True, it is possible that other paragraphs of section 1632(b) might apply. See, e.g., section 1632(b)(4) ("Notwithstanding paragraph (2), ..."). But Debtor does not argue the application of any such other paragraphs.

Accordingly, on the current record it appears that section 1632 is inapplicable. In addition, Trinity argues that the remedy under that act (Cal. Civ. C. 1632(k)) is for the aggrieved person to "rescind" the contract or agreement, and this "requires that the Debtor be able to tender payment in full to [Trinity]," which Debtor has not offered to do. See Trinity Resp. (dkt. 34), pp.2:23-3:2 (citing authority). On the present record, this also appears to be accurate.

In passing, Debtor cites section 1632.5, which does apply to mortgage loans. But by the statute's own terms any action for violation of that section "may only be brought by a licensing agency or by the Attorney General," and

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CONT... Martin G Torres

Chapter 13

that section "shall not be construed to create or enhance any claim, right of action, or civil liability." Cal. Civ. C. 1632.5(k) *and* (l).

For the foregoing alternative reasons, it appears that Debtor cannot successfully object to Trinity's claim based on the California Translation Act.

(6) Other objections

Debtor objects that Trinity (and its predecessor in interest, Magnus) violated the "Periodic Statement Rule" by not sending monthly statements. See Claim Obj. (dkt.29), pp. 5:11-6:11. Debtor also argues that a 10-day notice of default required by the parties' contract was not sent (*id.*, p.4:20-25), that the claim upon the promissory note was abandoned and therefore is unenforceable (*id.*, p.6:12-27), and that Trinity's claim should be barred by the doctrine of laches. *Id.*, pp. 8:22-9:4.

Trinity responds that "the periodic statement rule does not apply to Trinity, because Trinity is a small servicer within the meaning of 12 CFR Section 1026.41(e)(ii)" and alternatively that Debtor "has waived his ability to enforce the periodic statement rule by tendering payments in 2020." Trinity Resp. (dkt. 34), p.3:3-9. As for laches, Trinity argues that "Debtor's proffer of payments for a proposed forbearance make such an argument moot." *Id.*, p.3:10-11. Trinity does not respond to the alleged failure to send a 10-day notice of default.

The tentative ruling is that these factual and legal issues have not been fully briefed and addressed. Accordingly, this tentative ruling expresses no views on these issues at this time.

(7) Mediation

The tentative ruling is to order the parties to mandatory mediation. Not only is mediation helpful in many matters, but this particular matter appears to include both factual and legal issues that are somewhat complex and could involve substantial costs and delays for both sides if they were fully litigated. The tentative ruling is to set a **deadline of 8/5/21** to lodge a proposed mediation order.

Meanwhile, the tentative ruling is not to adopt any of the other tentative rulings set forth above, and instead to preserve both parties' rights on all issues, and to continue this hearing to **9/9/21 at 8:30 a.m.** If the parties have not reached an agreement by that continued hearing, this Court anticipates setting a schedule for filing any appropriate papers.

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CONT... Martin G Torres

Chapter 13

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone**. You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Martin G Torres

Represented By
Axel H Richter

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Thursday, July 22, 2021

Hearing Room 1545

8:30 AM

2:20-18003 Yolanda Espinosa

Chapter 13

#5.00 Cont'd hrg re: Objection to Proof of Claim #8 Filed
by Bank of America, N.A.
fr. 1/21/21, 03/18/21, 5/20/21

Docket 23

Tentative Ruling:

Tentative Ruling for 7/22/21:

Appearances required.

The Court continued the 5/20/21 hearing on this matter to this date to allow claimant to commence an adversary proceeding and/or to allow the parties to negotiate the terms of a loan modification. As of the date this tentative ruling was prepared, no proposed loan modification has been filed with the Court. There is no tentative ruling, but the parties should be prepared to address the status of these discussions.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone.** You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 5/20/21:

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Central District of California
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Judge Neil Bason, Presiding
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CONT... Yolanda Espinosa
Appearances required.

Chapter 13

The Court continued the 1/21/21 hearing on this matter to 3/18/21 to allow claimant to commence an adversary proceeding and/or to allow the parties to consensual resolution. On 3/16/21, this Court entered an order approving the stipulation by the parties to continue the 3/18/21 hearing to this date. There is no tentative ruling, but the parties should be prepared to address the status of their negotiations and/or whether claimant intends to initiate the aforementioned adversary proceeding.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 1/21/21:

Continue to 3/18/21 at 8:30 a.m. so that claimant can commence its contemplated adversary proceeding or the parties can reach a consensual resolution. Counsel for Debtor is cautioned about the need to exercise reasonable judgment in how much to expend in paying attorney fees instead of paying creditors. Appearances are not required on 1/21/21.

(1) Reasons for continuance

This Court has reviewed Debtor's motion (dkt. 23), the claimant's opposition (dkt. 30), and Debtor's reply (dkt. 31). Although Debtor's reply argues that the claimant has not cited authority, that puts the cart before the horse. Debtor is the objecting party and Debtor has not cited any authority that a deed of trust on real property is void or unenforceable as a matter of law when it includes the correct street address and a conflicting legal

**United States Bankruptcy Court
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8:30 AM

CONT... Yolanda Espinosa

Chapter 13

description for a particular parcel.

Alternatively, even if Debtor did not need to cite any such authority (which is incorrect), this Court's understanding of California law is contrary to Debtor's position. Based on unrelated litigation before this Court, the general rule appears to be that a transfer of an interest in property "is not void for uncertainty because of errors or inconsistency in some of the particulars of the description" if it is possible "from the whole description to ascertain and identify the land intended to be conveyed." *Gyurec v. Bank of New York Trust Co., NA* (Cal. Ct. App., 4th Dist., 2014) (unpublished, Case No. No. G050083) (quoting *Leonard v. Osburn*, 169 Cal. 157, 160 (1915)) (correct street address sufficient for deed of trust's validity, even though it incorrectly described property as located in "Township 4 North" instead of Township 4 South"). See also Cal. Code Civ. P. 2077 ("Where there are certain definite and ascertained particulars in the description, the addition of others which are indefinite, unknown, or false, does not frustrate the conveyance, but it is to be construed by the first mentioned particulars.").

Based on the foregoing, it appears appropriate to continue this hearing for the parties either to litigate the issue or, perhaps, agree to a consensual resolution.

(2) Expenditure of funds on attorney fees

Given the apparent principles of California law (summarized above), Debtor's counsel is reminded of the need to do a cost/benefit analysis in determining whether it is worth expending funds on attorney fees that otherwise would go to pay creditors. Debtor's counsel is reminded that the posted "Procedures of Judge Bason" (available at www.cacb.uscourts.gov) state:

§ 502: claim objections & cost/benefit analysis. When objecting to claims, be sure to include an analysis of whether the costs of preparing and litigating the claim objection (administrative expenses) do not exceed the anticipated benefits (reductions in claims). For example, if the anticipated dividend is small or 0% then the attorney fees incurred in prosecuting your claim objection to any general unsecured claim probably will exceed the benefit to the bankruptcy estate/debtor, so filing that objection would be a waste of the bankruptcy estate's (and everyone else's) resources (unless, for example, the claim is nondischargeable, in which event

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CONT...

Yolanda Espinosa

Chapter 13

the attorney fees might well be justified).

Debtor's claim objection does not include any cost/benefit analysis. If Debtor decides to continue with the claim objection, this Court will set a deadline at a future hearing for Debtor's counsel to file a cost/benefit declaration.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Yolanda Espinosa

Represented By
Barry E Borowitz

Movant(s):

Yolanda Espinosa

Represented By
Barry E Borowitz

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Hearing Room 1545

8:30 AM

2:17-24084 Kip Scott Rolfe

Chapter 13

#6.00 Cont'd hrg re: Objection to Claim Number 11 by Claimant
Internal Revenue Service
fr. 1/21/21, 2/18/21, 04/22/21

Docket 74

*** VACATED *** REASON: Voluntary Dismissal of Motion Filed on
07/13/21 (Dkt. 97)

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Kip Scott Rolfe

Represented By
Thomas B Ure

Movant(s):

Kip Scott Rolfe

Represented By
Thomas B Ure

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, July 22, 2021

Hearing Room 1545

8:30 AM

2:20-16738 Barbara Jo Baiz Rodriguez

Chapter 13

#7.00 Hrg re: Motion to Avoid junior Lien on principal residence
with Jerome S. Cohen

Docket 50

Tentative Ruling:

Tentative Ruling for 7/22/21 (this matter was inadvertently omitted when the tentative rulings were first posted on 7/21/21 at approximately 12:16 p.m.).
Appearances are not required.

Grant.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone.** You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Barbara Jo Baiz Rodriguez

Represented By

**United States Bankruptcy Court
Central District of California
Los Angeles
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Thursday, July 22, 2021

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8:30 AM

CONT... Barbara Jo Baiz Rodriguez

Stephen S Smyth

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Thursday, July 22, 2021

Hearing Room 1545

9:30 AM
2:00-00000

Chapter

**#1.00 PLEASE BE ADVISED THAT THE CHAPTER 13 9:30 AM
CONFIRMATION CALENDAR CAN BE VIEWED ON THE
COURT'S WEBSITE (www.cacb.uscourts.gov) UNDER:
JUDGES>BASON, N.>CHAPTER 13>CONFIRMATION HEARINGS CALENDAR**

Docket 0

Tentative Ruling:

- NONE LISTED -

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Los Angeles
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Thursday, July 22, 2021

Hearing Room 1545

11:00 AM
2:00-00000

Chapter

**#1.00 PLEASE BE ADVISED THAT THE CHAPTER 13 HEARINGS
at 11:00 AM CAN BE VIEWED ON THE COURT'S WEBSITE
(www.cacb.uscourts.gov) UNDER: JUDGES>BASON, N.>CHAPTER 13**

Docket 0

Tentative Ruling:

- NONE LISTED -

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Thursday, July 22, 2021

Hearing Room 1545

11:00 AM

2:21-12517 Law Offices of Brian D. Witzer

Chapter 11

#2.00 Cont'd Status Conference re: Chapter 11 Case
fr. 3/31/21, 4/27/21, 5/11/21, 6/15/21, 6/29/21,
7/6/21, 07/20/21

Docket 1

Tentative Ruling:

Revised Tentative Ruling for 7/22/21:

Note: This revised tentative ruling amends the previously published tentative ruling (posted on 7/21/21 at approximately 12:16 p.m.) to state the proper date for the continued status conference.

Appearances required by counsel for the debtor.

(1) Current issues

(a) Debtor's Motion to Extend Exclusivity Period for Filing a Chapter 11 Plan and Disclosure Statement (dkt. 148); Application for Order Shortening Time (dkt. 149); Order Provisionally Granting Application and Setting Hearing on Shortened Notice ("OST," dkt. 150), Notices (152, 153, 156, 157), Opposition of Pravati Credit Fund III LP ("Pravati") (dkt. 160)

The tentative ruling is to grant an extension of exclusivity **through 11/30/21**, without prejudice to seeking further extensions, in view of (i) Pravati's postpetition interference with Debtor's collection of its accounts receivable, which at the very least hindered Debtor's ability to establish a track record of financial performance on which to base any proposed plan of reorganization, (ii) this Court's recent decision to order the parties to mandatory mediation and, meanwhile, stay all proceedings, and (iii) the arguments set forth in the parties' papers and in the OST (dkt. 150).

(2) Dates/procedures. This case was filed on 3/29/21.

- (a) Bar date: 7/6/21.
- (b) Procedures order: dkt. 4 (service cured, see dkt. 8, 82)
- (c) Plan/Disclosure Statement: TBD
- (d) Continued status conference: 8/17/21 at 1:00 p.m., concurrent with

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11:00 AM

CONT...

Law Offices of Brian D. Witzer

Chapter 11

other matters. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone**. You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 7/22/21:

Appearances required by counsel for the debtor.

(1) Current issues

(a) Debtor's Motion to Extend Exclusivity Period for Filing a Chapter 11 Plan and Disclosure Statement (dkt. 148); Application for Order Shortening Time (dkt. 149); Order Provisionally Granting Application and Setting Hearing on Shortened Notice ("OST," dkt. 150), Notices (152, 153, 156, 157), Opposition of Pravati Credit Fund III LP ("Pravati") (dkt. 160)

The tentative ruling is to grant an extension of exclusivity **through 11/30/21**, without prejudice to seeking further extensions, in view of (i) Pravati's postpetition interference with Debtor's collection of its accounts receivable, which at the very least hindered Debtor's ability to establish a track record of financial performance on which to base any proposed plan of reorganization, (ii) this Court's recent decision to order the parties to

**United States Bankruptcy Court
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Judge Neil Bason, Presiding
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Thursday, July 22, 2021

Hearing Room 1545

11:00 AM

CONT... Law Offices of Brian D. Witzer

Chapter 11

mandatory mediation and, meanwhile, stay all proceedings, and (iii) the arguments set forth in the parties' papers and in the OST (dkt. 150).

(2) Dates/procedures. This case was filed on 3/29/21.

(a) Bar date: 7/6/21.

(b) Procedures order: dkt. 4 (service cured, see dkt. 8, 82)

(c) Plan/Disclosure Statement: TBD

(d) Continued status conference: 7/27/21 at 1:00 p.m., concurrent with other matters. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone.** You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Law Offices of Brian D. Witzer

Represented By
Michael Jay Berger

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, July 22, 2021

Hearing Room 1545

11:00 AM

2:21-12517 Law Offices of Brian D. Witzer

Chapter 11

#3.00 Hrg re: Motion to Extend Exclusivity Period for Filing a
Chapter 11 Plan and Disclosure Statement

Docket 148

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 2,
7/22/21 at 11:00 a.m.).

Party Information

Debtor(s):

Law Offices of Brian D. Witzer

Represented By
Michael Jay Berger

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, August 3, 2021

Hearing Room 1545

9:00 AM
2:00-00000

Chapter

#1.00 Hearings in Judge Bason's courtroom (1545) are now **simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone.** You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. ZoomGov appearances are free.

ZoomGov Instructions for all matters on today's calendar:

Meeting ID: 160 523 1680

Password: 893920

Meeting URL: <https://cacb.zoomgov.com/j/1605231680>

Telephone: +1 669 254 5252 or +1 646 828 7666 or 833 568 8864 (Toll Free)

Please connect at least 5 minutes before the start of your hearing, and wait with your microphone muted until your matter is called.

CHAPTER 13: Persons needing to contact the Chapter 13 Trustee's attorney, either prior to the hearing or during a recess, can call Kaleen Murphy, Esq. at (213) 996-4433.

Docket 0

Tentative Ruling:

- NONE LISTED -

**United States Bankruptcy Court
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Los Angeles
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Tuesday, August 3, 2021

Hearing Room 1545

10:00 AM

2:18-10248 Rosa Candida Perez

Chapter 13

#1.00 Hrg re: Motion for relief from stay [RP]

THE BANK OF NEW YORK MELLON
vs
DEBTOR

Docket 47

Tentative Ruling:

Appearances are not required.

Grant as set forth below.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason

**United States Bankruptcy Court
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Los Angeles
Judge Neil Bason, Presiding
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Tuesday, August 3, 2021

Hearing Room 1545

10:00 AM

CONT... Rosa Candida Perez

Chapter 13

(available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone.** You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Rosa Candida Perez

Represented By
Thomas B Ure

Movant(s):

The Bank of New York Mellon fka

Represented By
Robert P Zahradka

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, August 3, 2021

Hearing Room 1545

10:00 AM

2:18-10256 Edward Elixander Waters

Chapter 13

#2.00 Hrg re: Motion for relief from stay [RP]

DEUTSCHE BANK NATIONAL TRUST CO
vs
DEBTOR

Docket 47

Tentative Ruling:

Appearances required.

There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 49).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone.** You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, August 3, 2021

Hearing Room 1545

10:00 AM

CONT... Edward Elixander Waters

Chapter 13

Debtor(s):

Edward Elixander Waters

Represented By
D Justin Harelik

Movant(s):

Deutsche Bank National Trust

Represented By
Sean C Ferry
Eric P Enciso

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, August 3, 2021

Hearing Room 1545

10:00 AM

2:19-19155 Rosa M Palacios

Chapter 13

#3.00 Hrg re: Motion for relief from stay [RP]

SPECIALIZE LOAN SERVICING, LLC
vs
DEBTOR

Docket 41

***** VACATED *** REASON: APO**

Tentative Ruling:

Party Information

Debtor(s):

Rosa M Palacios

Represented By
Matthew D. Resnik

Movant(s):

Specialized Loan Servicing, LLC

Represented By
Austin P Nagel

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, August 3, 2021

Hearing Room 1545

10:00 AM

2:19-24368 Brooke Dworzan

Chapter 13

#4.00 Hrg re: Motion for relief from stay [RP]

US BANK TRUST NATIONAL ASSOC
vs
DEBTOR

Docket 47

Tentative Ruling:

Appearances required.

There is no tentative ruling, but the parties should be prepared to address whether this matter should be continued in view of the Debtor's pending motion to refinance the property (dkt. 49).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone.** You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Brooke Dworzan

Represented By

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, August 3, 2021

Hearing Room 1545

10:00 AM

CONT... Brooke Dworzan

Julie J Villalobos

Chapter 13

Movant(s):

US Bank Trust National Association,

Represented By
Erin M McCartney

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, August 3, 2021

Hearing Room 1545

10:00 AM

2:20-14860 Glen Yamil Valladares

Chapter 13

#5.00 Hrg re: Motion for relief from stay [RP]

BANK OF AMERICA, NA
vs
DEBTOR

Docket 50

Tentative Ruling:

Appearances are not required.

Grant as set forth below.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, August 3, 2021

Hearing Room 1545

10:00 AM

CONT... Glen Yamil Valladares

Chapter 13

appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone.** You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Glen Yamil Valladares

Represented By
William J Smyth
Stephen S Smyth

Movant(s):

Bank of America, N.A.

Represented By
Robert P Zahradka
Diane Tran

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, August 3, 2021

Hearing Room 1545

10:00 AM

2:20-15600 Manuel Jimenez Cruz

Chapter 13

#6.00 Hrg re: Motion for relief from stay [RP]

U.S. BANK TRUST NATIONAL ASSOC
vs
DEBTOR

Docket 40

Tentative Ruling:

Appearances are not required.

Grant as set forth below.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, August 3, 2021

Hearing Room 1545

10:00 AM

CONT... **Manuel Jimenez Cruz**

Chapter 13

appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone.** You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Manuel Jimenez Cruz

Represented By
Kevin T Simon

Movant(s):

U.S. Bank Trust National

Represented By
Cassandra J Richey

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, August 3, 2021

Hearing Room 1545

10:00 AM

2:21-10361 DOUGLAS E. WALLACE , JR

Chapter 13

#7.00 Hrg re: Motion for relief from stay [RP]

CREATIVE INVESTMENT GROUP, INC.
vs
DEBTOR

Docket 55

Tentative Ruling:

Appearances required.

There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see Debtor's response, dkt. 63, and Movant's reply, dkt. 65).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone.** You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

**United States Bankruptcy Court
Central District of California
Los Angeles
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10:00 AM

CONT... DOUGLAS E. WALLACE , JR

Chapter 13

Debtor(s):

DOUGLAS E. WALLACE JR

Represented By
Misty Wilks

Movant(s):

Creative Investment Group, Inc.

Represented By
Julian K Bach

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, August 3, 2021

Hearing Room 1545

10:00 AM

2:21-11626 Raquel Espericueta

Chapter 13

#8.00 Hrg re: Motion for relief from stay [RP]

WELLS FARGO BANK, NA
vs
DEBTOR

Docket 36

Tentative Ruling:

Appearances are not required.

Grant as set forth below.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If

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10:00 AM

CONT... Raquel Espericueta

Chapter 13

appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone.** You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Raquel Espericueta

Represented By
Donald E Iwuchuku

Movant(s):

Wells Fargo Bank, N.A., as trustee,

Represented By
Robert P Zahradka

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, August 3, 2021

Hearing Room 1545

10:00 AM

2:20-12080 Anna Law

Chapter 13

#9.00 Hrg re: Motion for relief from stay [PP]

HONDA LEASE TRUST
vs
DEBTOR

Docket 36

Tentative Ruling:

Appearances are not required.

Grant as set forth below.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

The automatic stay does not apply

This case has been dismissed, which terminates the automatic stay. See 11 U.S.C. 349(b)(3) & 362(c).

In the alternative and in addition, the tentative ruling is to grant relief from the automatic stay as follows.

Note regarding mootness: Judge Bason's standard tentative ruling is as follows. For three reasons the above tentative ruling that there *is no stay* does not moot requests for relief from whatever stay might apply. First, such *alternative* rulings are appropriate because (i) the very nature of *tentative* rulings is that this Court could be persuaded to depart from any one of them, and (ii) a *final* ruling on any one issue could be reversed on appeal. Second, even if there is currently no stay, that could change - e.g., if there is no stay because of dismissal of this bankruptcy case, such dismissal could be vacated and that might reimpose the stay even if there is a lack of adequate protection, or other grounds why the stay should not apply, and therefore the movant will suffer cognizable harm unless the issues are addressed now (Judge Bason regularly vacates dismissals based on stipulations or other good cause). Third, if the motion includes any request for relief as to *past*

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CONT... **Anna Law**

Chapter 13

acts (annulment) or *future* cases (*in rem* relief), those things are still at issue even if there is no *current* automatic stay. See *In re Aheong*, 276 B.R. 233 (9th Cir. BAP 2002). For all of these reasons, the tentative ruling is that it is appropriate to address the following issues.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone**. You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

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Central District of California
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10:00 AM

CONT... Anna Law

Chapter 13

Debtor(s):

Anna Law

Represented By
Charles Shamash

Movant(s):

HONDA LEASE TRUST

Represented By
Vincent V Frounjian

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Courtroom 1545 Calendar**

Tuesday, August 3, 2021

Hearing Room 1545

10:00 AM

2:20-20828 Francisco Joaquin Lopez Martinez

Chapter 13

#10.00 Hrg re: Motion for relief from stay [PP]

VW CREDIT INC
vs
DEBTOR

Docket 32

Tentative Ruling:

Appearances required.

There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 34).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone.** You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

**United States Bankruptcy Court
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Hearing Room 1545

10:00 AM

CONT... Francisco Joaquin Lopez Martinez

Chapter 13

Debtor(s):

Francisco Joaquin Lopez Martinez

Represented By
D Justin Harelik

Movant(s):

VW Credit, Inc., dba Ducati

Represented By
Austin P Nagel

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, August 3, 2021

Hearing Room 1545

10:00 AM

2:21-15567 Nora Alicia Saenz

Chapter 13

#11.00 Hrg re: Motion in Individual Case for Order
Imposing a Stay or Continuing the Automatic
Stay as the Court Deems Appropriate

Docket 7

Tentative Ruling:

Conditionally grant, as follows. Appearances required.

The tentative ruling is that Debtor cannot overcome the presumption of a lack of good faith absent something significantly more persuasive than the evidence that she has presented. For example, if Debtor were to propose a short deadline to sell her home, that might establish that she is prosecuting this latest bankruptcy case in good faith. Another example might be if she were (a) to agree that no future bankruptcy case filed in the next two years will affect the rights of objecting creditor U.S. Bank, NA ("US Bank") ("*in rem* relief") and (b) to agree to a stay-current adequate protection order ("APO") in this current bankruptcy case.

Assuming that Debtor would prefer not to sell her home, the tentative ruling is that a stay-current APO with *in rem* relief as to any future bankruptcy case is warranted under 11 U.S.C. 362(d)(4) and the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017). If this Court adopts that approach, this Court contemplates that the APO will provide:

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

Further analysis:

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CONT...

Nora Alicia Saenz

Chapter 13

A presumption of lack of good faith applies because Debtor filed to "provide adequate protection as ordered by the court." 11 U.S.C. 362(c)(3)(C)(i)(II)(bb). See also 11 U.S.C. 362(c)(3)(C)(ii). *And see In re Saenz*, Case No. 2:20-bk-15207-NB, dkt. 61 (APO).

Alternatively, a presumption of lack of good faith applies because Debtor's motion papers (and the untimely additional evidence in her reply papers) do not establish a sufficiently substantial change in her financial or personal affairs *since the dismissal of her last case* to conclude that this current case will result in "a confirmed plan that will be fully performed." 11 U.S.C. 362(c)(3)(i)(III).

The presumption of a lack of good faith can only be rebutted by "clear and convincing evidence." 11 U.S.C. 362(c)(3)(C). The tentative ruling is that Debtor has failed to meet that burden on the present record, and can only do so if she presents substantially more evidence of a realistic ability to pay US Bank in this bankruptcy case, such as the examples set forth at the start of this tentative ruling.

Of course, this Court recognizes the very difficult situation that Debtor alleges. Debtor's situation would be hard for anyone to overcome, including marital issues involving a restraining order, and the need to remain home to take care of children during the COVID-19 pandemic. But, first, Debtor is vague about the timing of those things, and under section 362(c)(3)(C)(i)(III) any change in circumstances must have occurred since the dismissal of her prior case. Second, Debtor's default under the APO in her prior case establishes an alternative ground why the presumption of a lack of good faith applies. See 11 U.S.C. 362(c)(3)(C)(i)(II)(bb). See also 11 U.S.C. 362(c)(3)(C)(ii).

It is also true that, conceivably, Debtor's unemployment compensation and purported rental income will enable Debtor to do what she failed to do in her prior string of bankruptcy cases - namely, reliably make payments to US Bank and perform under the terms of a confirmable plan. But, as US Bank points out, unemployment insurance is of limited duration, and Debtor has made similar promises in her prior bankruptcy cases.

The bottom line is that the statute requires "clear and convincing" evidence. Debtor's situation is very unfortunate, but that alone does not establish good faith in filing repeated bankruptcy petitions and having only a doubtful ability to stay current in her present (unemployed) circumstances.

Based on all of the foregoing, the tentative ruling is to issue two orders:

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CONT... Nora Alicia Saenz

Chapter 13

(1) the above-referenced stay-current APO with *in rem* relief, to be prepared by US Bank with a copy of this tentative ruling attached (lodged within 7 days of this hearing), and (2) an order continuing the automatic stay, to be prepared by this Court, cross-referencing the APO and including the following language:

The stay of 11 U.S.C. 362(a) applies subject to the following modifications and conditions:

(1) APO. As against US Bank, this order is subject to an adequate protection order (a) requiring Debtor to stay current in her monthly payments and other obligations and (b) providing that no future bankruptcy case will affect the property securing US Bank's lien for a period of two years.

(2) Service and reconsideration. Any party in interest who was not timely served in accordance with FRBP 7004 (incorporated by FRBP 9014(b)) is hereby granted through 14 days after proper service to seek reconsideration, including retroactive relief (under FRBP 9023 and/or 9024). Any such person (a) may set a hearing on 14 days' notice, (b) may appear by telephone (if arrangements are made per Judge Bason's posted procedures), and (c) may present all arguments orally at the hearing (*i.e.*, no written argument is required). If written arguments appear necessary then this court will set a briefing schedule at the hearing.

(3) Reasons. (a) It appears appropriate to impose the automatic stay, and to impose it as to all persons rather than just as to selected persons, because one purpose of the automatic stay is to preventing a "race to collect" that could unfairly advantage some creditors at the expense of others. (b) To prevent possible abuse, this Court provides the foregoing simple process for reconsideration.

(4) Very limited ruling. This Court's tentative ruling to grant the foregoing relief is solely for purposes of this motion, and is not intended to have any binding effect with respect to any future assertions by any party in interest regarding the existence or lack of existence of good faith in any other context.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances

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Los Angeles
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10:00 AM

CONT...

Nora Alicia Saenz

Chapter 13

required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone**. You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Nora Alicia Saenz

Represented By
Jaime A Cuevas Jr.

Movant(s):

Nora Alicia Saenz

Represented By
Jaime A Cuevas Jr.
Jaime A Cuevas Jr.
Jaime A Cuevas Jr.

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, August 3, 2021

Hearing Room 1545

10:00 AM

2:21-14646 Royal Antiques, Inc

Chapter 7

#12.00 Cont'd hrg re: Motion for relief from stay [UD]
fr. 7/20/21

PASADENA ANTIQUE CENTER LLC
vs
DEBTOR

Docket 7

Tentative Ruling:

Tentative Ruling for 8/3/21:

Deny request for future *in rem* relief for the reasons stated below (without altering the other relief granted in the adopted tentative ruling for 7/20/21).
Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this court's final ruling. See LBR 9021-1(b)(1)(B).

Reason: This matter was continued from 7/20/21 on shortened notice on the condition that Movant serve the motion and notice of this continued hearing on the original lessee (Victor Reza Valanejad) by 7/22/21. As of the preparation of this tentative ruling, Movant has not filed a proof of service. Based on Movant's non-compliance, the tentative ruling is to deny Movant's request for future *in rem* relief (without prejudice to the other relief granted by virtue of Debtor's failure to contest the tentative ruling for 7/20/21).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN**

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, August 3, 2021

Hearing Room 1545

10:00 AM

CONT... Royal Antiques, Inc

Chapter 7

PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone. You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 7/20/21:

Grant in part and continue in part to 8/3/21 at 10:00 a.m. as set forth below.
Appearances are not required on 7/20/21.

The automatic stay does not apply

This case has been dismissed, which terminates the automatic stay.
See 11 U.S.C. 349(b)(3) & 362(c).

In the alternative and in addition, the tentative ruling is to grant relief from the automatic stay as follows.

Note regarding mootness: Judge Bason's standard tentative ruling is as follows. For three reasons the above tentative ruling that there *is no stay* does not moot requests for relief from whatever stay might apply. First, such *alternative* rulings are appropriate because (i) the very nature of *tentative* rulings is that this Court could be persuaded to depart from any one of them, and (ii) a *final* ruling on any one issue could be reversed on appeal. Second, even if there is currently no stay, that could change - *e.g.*, if there is no stay because of dismissal of this bankruptcy case, such dismissal could be vacated and that might reimpose the stay even if there is a lack of adequate protection, or other grounds why the stay should not apply, and therefore the movant will suffer cognizable harm unless the issues are addressed now (Judge Bason regularly vacates dismissals based on stipulations or other good cause). Third, if the motion includes any request for relief as to *past* acts (annulment) or *future* cases (*in rem* relief), those things are still at issue even if there is no *current* automatic stay. See *In re Aheong*, 276 B.R. 233 (9th Cir. BAP 2002). For all of these reasons, the tentative ruling is that it is appropriate to address the following issues.

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CONT... Royal Antiques, Inc

Chapter 7

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2). To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Retroactive relief

Grant the request for retroactive annulment of the stay. See *In re Nat'l Enviro. Waste Corp.*, 129 F.3d 1052, 1054-56 (9th Cir. 1997); *In re Fjeldsted*, 293 B.R. 12 (9th Cir. BAP 2003); and see also *In re Williams*, 323 B.R. 691, 697-702 (9th Cir. BAP 2005) (various issues involving annulment, and application of *Fjeldsted*), *aff'd*, 204 Fed.Appx. 582 (9th Cir. 2006), *overruled on other issues*, *In re Perl*, 811 F.3d 1120 (9th Cir. 2016) (scope of automatic stay).

Relief notwithstanding future bankruptcy cases.

As to the requested relief that will remain effective notwithstanding any future bankruptcy case, continue the motion to the date and time set forth at the start of this tentative ruling, for service on the persons who executed the documents through which the movant asserts its interest in the property (sometimes referred to in the leasehold context as the "original lessee(s)"). Reasons: See LBR 4001-1(c)(1)(B). In addition, Judge Bason has due process concerns about granting such relief without service on the person(s) whose interests may be most directly affected. See *generally Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306 (1950) (due process generally). In this matter, such persons appear to include: Victor Reza Valanejad.

Option for shortened time: This Court has selected a continued hearing date that contemplates shortened notice (per Rule 9006) but that date is conditioned on the movant (i) serving, on the day after the current hearing date, the motion papers and notice of the continued hearing date, and (ii) filing that notice and a proof of service no later than the next day. Alternatively, the movant may self-calendar a continued hearing on *regular* notice.

Option for interim/partial order: Movant may elect to lodge a proposed order granting the *partial* relief provided in this tentative

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CONT...

Royal Antiques, Inc

Chapter 7

ruling, but any such order must recite that a continued hearing has been set to consider additional relief (or, alternatively, that the movant no longer seeks additional relief and the Clerk's office is requested and directed to take the continued hearing off calendar).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) is also terminated, because it has not been shown to have any basis to exist independent of the stay under 11 U.S.C. 362(a).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone**. You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Royal Antiques, Inc

Represented By
Bruce A Boice

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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10:00 AM

CONT... Royal Antiques, Inc

Chapter 7

Movant(s):

Pasadena Antique Center LLC

Represented By
Gary D Fidler

Trustee(s):

Brad D Krasnoff (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, August 3, 2021

Hearing Room 1545

11:00 AM

2:18-20704 Finnian Osakpamwan Ebuehi

Chapter 7

Adv#: 2:20-01633 Mastan, Chapter 7 Trustee v. Ebuehi et al

#1.00 Pretrial Conference re: Complaint Objecting to Discharge
fr. 12/1/20, 4/27/21

Docket 1

Tentative Ruling:

Tentative Ruling for 8/3/21:

Continue to 8/26/21 at 9:00 a.m. (the trial date). Appearances are not required on 8/3/21.

(A) Current issues

This Court is not aware of any issues that need to be addressed prior to trial. The parties have resolved their disputes concerning the pretrial stipulation and order. See Order (adv. dkt. 42) and Stipulation (adv. dkt. 44).

This Court understands that the parties intend to appear in person for the trial. The parties are reminded that face masks are required under the current policy adopted by the judges of the Bankruptcy Court, as well as Judge Bason's own policies.

The parties are also directed to review the posted "Procedures of Judge Bason" (available at www.cacb.uscourts.gov) regarding trial procedures.

(B) Standard requirements

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (adversary docket number 19).

(2) Mediation [Intentionally omitted]

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(3) Deadlines

This adversary proceeding has been pending since 9/29/20. On 12/2/20, this Court entered a scheduling order (adv.dkt.23) memorializing certain dates and deadlines which have now passed and have been omitted below.

Deliver trial exhibits to other parties and chambers, including direct testimony by declaration unless excused: 8/5/21

Trial commencement: 8/26/21 at 9:00 a.m.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 4/27/21:

Appearances required.

(A) Current issues

This Court has reviewed the parties' joint status report (adv.dkt. 28) and the other filed documents and records in this adversary proceeding.

(1) The deadline to complete discovery has passed

Defendants/Debtors state that they anticipate propounding interrogatories on Plaintiff/UST and completing discovery by 5/30/21. Adv.Dkt. 28, p.2. But this Court's prior scheduling order (adv. dkt. 23, p.1, para. "(3)(f)") set 3/2/21 as the "last day for discovery to be completed, including receiving responses to discovery requests," and Defendants/Debtors have not filed any motion for reconsideration of that deadline. The tentative ruling is that the Status Report cannot be treated as

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such a motion.

This Court notes that Plaintiff/UST asserts that Defendants/Debtors have "[not] responded (timely or otherwise) to written discovery served by Plaintiff, including interrogatories, requests for production of documents and requests for admissions." Adv. dkt. 28, p.4. The tentative ruling is that this Court will not take any action on that non-responsiveness *sua sponte* (without prejudice to any evidentiary or other consequences that might be requested by Plaintiff/UST at trial or any other time).

(B) Standard requirements

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (adversary docket number 19).

(2) Mediation

Plaintiff/UST does not wish to have this matter sent to mediation. Stat.Rpt. (adv.dkt.28), p.3. Defendants/Debtors request mediation and state that they seek a chapter 7 discharge and to "obtain the homestead exemption funds." Stat.Rpt. (adv.dkt.28), pp.3-4. The tentative ruling is that (a) mediation would not appear to be productive, given the lack of participation in discovery by Defendants/Debtors and the opposition of Plaintiff/UST; and (b) whether and when Defendants/Debtors are or are not entitled to any homestead exemption funds is not within the scope of this adversary proceeding.

(3) Deadlines

This adversary proceeding has been pending since 9/29/20. On 12/2/20, this Court entered a scheduling order (adv.dkt.23) memorializing certain dates and deadlines which have now passed and have been omitted below. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed amended scheduling order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise

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memorializing the following new dates and deadlines.

Lodge Joint Proposed Pre-Trial Order: 7/20/21

Pretrial conference: 8/3/21 at 11:00 a.m.

Deliver trial exhibits to other parties and chambers, including direct testimony by declaration unless excused: 8/5/21

Trial commencement: 8/9/21 at 9:00 a.m.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 12/1/20:

Appearances required.

This Court has reviewed the parties' joint status report (adv.dkt. 19) and the other filed documents and records in this adversary proceeding.

(A) Standard requirements

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority

The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this Bankruptcy Court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented.

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See generally Stern v. Marshall, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). *See generally In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation

[Intentionally omitted: it appears that mediation may be unproductive at this time.]

(3) Deadlines

This adversary proceeding has been pending since 9/29/20. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Joinder of parties/amendment of pleadings: 2/16/21 deadline.

Discovery cutoff (for completion of discovery): 3/2/21.

Expert(s) - deadline for reports: N/A

Expert(s) - discovery cutoff (if different from above): N/A

Dispositive motions to be heard no later than: 4/27/20

Joint Status Report: 4/13/21.

Continued status conference: 4/27/21 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers, including direct testimony by declaration unless excused: TBD

Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances

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required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Finnian Osakpamwan Ebuehi

Represented By
Edwin I Aimufua
Joseph Virgilio

Defendant(s):

Finnian Osakpamwan Ebuehi

Pro Se

Elizabeth Olohirere Ebuehi

Pro Se

Joint Debtor(s):

Elizabeth Olohirere Ebuehi

Represented By
Edwin I Aimufua
Joseph Virgilio

Plaintiff(s):

Peter J. Mastan, Chapter 7 Trustee

Represented By
Ashleigh A Danker

Trustee(s):

Peter J Mastan (TR)

Represented By
Ashleigh A Danker

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#2.00 Cont'd Status Conference re: Debtor's Second Renewed Motion for Order To Show Cause as to Why Specialized Loan Servicing LLC Should Not be Held in Contempt for Violation of Debtor's Discharge Injunction fr. 4/6/21, 6/15/21, 6/29/21

Docket 140

Tentative Ruling:

Tentative Ruling for 8/3/21:

Appearances required.

(1) Background

On 4/7/21 this Court issued its "Order to Show Cause as to Why Specialized Loan Servicing LLC Should Not be Held in Contempt for Violation of Debtor's Discharge Injunction" (dkt. 146, the "OSC"). Specialized Loan Servicing LLC ("Specialized") timely submitted its opposition papers (dkt. 151, 152, 153) and Debtor filed reply papers (dkt. 154, 155, 156).

Based on this Court's review of the docket and all relevant papers, the tentative ruling is to discharge the OSC and deny Debtor's Contempt Motion (dkt. 140) for the reasons set forth below.

(2) Procedural issues

(a) Specialized appears to be correct that a motion for contempt, rather than a motion for an OSC, would have been the better procedure

Specialized argues that this matter is not properly before this Court because Debtor should have filed a motion for an order of contempt, rather than a motion for an OSC, pursuant to Rules 9014 and 9020 (Fed. R. Bankr. P.). Dkt. 151, pp.3:24-4:22. Specialized appears to be correct, although the issue is not free from doubt. See *Barrientos v. Wells Fargo, N.A.*, 633 F.3d 1186 (9th Cir. 2011) ("A contempt order is to be sought by a motion in the main case under FRBP 9020, *and not by a motion for an order to show cause or by any adversary proceeding*") (emphasis added). Cf. Reply (dkt. 154), pp. 2:26-3:24.

But the tentative ruling is that there is an easy fix to any procedural

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infirmary. This Court can vacate the Order to Show Cause (dkt. 146, "OSC"), without vacating the previously established deadlines for Specialized to respond, and treat Specialized's opposition papers (dkt. 151, 152, 153) as a response to Debtor's motion instead of a response to the OSC. Mr. Nagel is directed to address whether there is any prejudice to Specialized in proceeding that way.

(b) Settlement communications will not be considered

The tentative ruling is to disregard Mr. Nagel's statements about alleged settlement communications between the parties. See Rule 408 (Fed. R. Evid.).

(c) Omitted table of contents etc.

Debtor argues that this Court should not consider Specialized's opposition papers to the extent they exceed ten pages in length because Specialized failed to comply with LBR 9013-2(b)(3) which requires a table of contents or indexed table of cases. The tentative ruling is to overrule Debtor's objection and excuse Specialized's noncompliance because Debtor has not demonstrated how he has been prejudiced.

(3) Specialized's arguments about the dischargeability of its long-term debt appear to be only partially correct

Specialized argues that it could not have violated the discharge injunction because section 11 U.S.C. 1328(a)(1) excepts its long-term claim from Debtor's discharge. Dkt. 151, pp.4:23-6:12. The tentative ruling is that, although this is true as far as it goes, it does not entirely undermine Debtor's arguments.

On the one hand, 11 U.S.C. 1328(a)(1) excepts from the discharge any debt "provided for under section 1322(b)(5)" - *i.e.*, the arrears cured over time in the plan and the ongoing "direct" payments. So it appears that Debtor continues to have *in personam* liability with respect to long-term debts that properly remained due and therefore had not been discharged.

On the other hand, Debtor is objecting to what he perceives as attempts by Specialized to collect dollar amounts that were either resolved by the parties' stipulation (*e.g.*, any disputed escrow payments) or had already been paid (*e.g.*, payments of principal and interest that had been received by Specialized during the term of the plan) and both of those types of debts were discharged. See 11 U.S.C. 524(a)(2) (discharge "operates as an injunction against the commencement or continuation of an action, the employment of

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process, or an act, to collect, recover or offset any ... debt [discharged under section 1328] as a personal liability"); see also *In re Marino*, 577 B.R. 772, 783-84 (9th Cir. BAP 2017) ("Even if a creditor threatens only to enforce its surviving lien, that threat will violate the discharge injunction if the evidence shows that the threat is really an effort to coerce payment of the underlying discharged debt").

(4) Debtor has not carried his burden to show that Specialized violated the discharge injunction

The tentative ruling is that Debtor has not shown under any standard, and especially by clear and convincing evidence, that Specialized violated the discharge injunction.

(a) Applicable standard

Under *Taggart v. Lorenzen*, 139 S.Ct. 1795 (2019), a court "may hold a creditor in civil contempt for violating a discharge order where there is," on an "objective" basis, "not a 'fair ground of doubt'" as to whether the creditor's conduct might be lawful under the discharge order." *Taggart*, 139 S.Ct. 1795, 1804 (emphasis added; citation omitted). "Under the fair ground of doubt standard," civil contempt "may be appropriate when the creditor violates a discharge order based on an objectively unreasonable understanding of the discharge order or the statutes that govern its scope." *Id.* at 1802 (emphasis added). See also *Ahn v. Sanger*, 794 Fed.App'x 661, 663 (9th Cir. 2020) (applicability of discharge injunction was "sufficiently debatable" that creditor had an objectively reasonable basis for concluding that its conduct was lawful).

The party seeking contempt sanctions has the burden of proof. That party must establish the relevant facts by "clear and convincing" evidence. *FTC v. Affordable Media, LLC*, 179 F.3d 1228, 1239 (9th Cir. 1999).

(b) Escrow payments and one purportedly late interest payment

For the reasons set forth in part "(1)(a)" of this Court's tentative ruling for 6/15/21 (copied below), the tentative ruling is that Debtor has not shown that Specialized's 12/8/20 letter violated the discharge injunction.

(c) Verification of mortgage letter

Debtor argues in his motion papers that Specialized violated the discharge injunction by failing promptly to correct the Verification of Mortgage letter dated "01/06/21" that it sent to Debtor. That letter asserted that "last year" (2020) Debtor was delinquent 9 times, from 15 days to over 90 days.

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Dkt. 140, at PDF p.36. But Debtor objects that he provided evidence to show that he made all of his 2020 mortgage payments timely. Dkt. 140, at p.8:13-20 & PDF pp.52-79.

Specialized counters that its Verification of Mortgage letter "was accurate because 11 U.S.C. 1322(b)(2) did not allow Debtor to modify its claim and because all pre-petition arrears were not paid in full until approximately September 2021 such that [its] accounting system accurately reported that the loan was technically 'delinquent' for 9 months in 202[0]." Dkt. 151, p.8, n. 2 (emphasis added). Specialized adds that it has now provided Debtor with a revised letter that omits the delinquencies at issue. Dkt. 152, p.2:12-16 & Ex. A.

The tentative ruling is that this is an unfortunate example of a miscommunication - "ships passing in the night." Ultimately, Debtor has not established that Specialized has done anything wrong at all, let alone violated the discharge injunction.

Although it appears to be uncontested that Debtor (x) was current on all "direct" payments of ongoing monthly principal and interest and (y) was current on all plan payments, nevertheless (z) those plan payments were designed to catch up on arrears and, until Debtor actually had caught up on those arrears, he remained delinquent under his loan documents, as Specialized confirmed to Debtor. In other words, Debtor's privilege of being able to cure defaults in a chapter 13 case does not change the fact that Debtor had previously fallen behind on his mortgage obligations and was in default under the contractual terms of the loan documents until those arrears were paid in full, which is what Specialized accurately told Debtor.

True, as Debtor points out, there is no declaration from Specialized itself, only its attorney. But the tentative ruling is that it is sufficient for an attorney to point out that a letter is technically correct, even if there is no declaration from the client supporting that point.

It is also true that it would have been helpful if Specialized had provided Debtor with a more detailed letter explaining that Debtor was contractually delinquent but had exercised his right to cure those delinquencies through his bankruptcy case. This Court's own tentative ruling for 6/15/21 (copied below) noted that Debtor appeared to be correct that he was current, and it was not until the latest papers filed by Specialized that this Court understood that Specialized's notations about delinquencies are correct as applied to the arrears (which, by definition, were delinquent).

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But Debtor also could have explained the full picture to prospective lenders. Alternatively, he could have made it clearer to Specialized that this was what he was asking Specialized to do.

In any event, even if Specialized had been unreasonable in its communications (which Debtor has not established), Debtor has the burden to prove more than that. Debtor must establish that Specialized was attempting to collect a discharged debt, and was doing so based on an objectively unreasonable understanding of the discharge injunction. The tentative ruling is that Debtor has not met that burden.

(5) Conclusion

Whatever harm Debtor suffered from Specialized not providing a modified Verification of Mortgage letter sooner is unfortunate. But Debtor has the burden to show, by clear and convincing evidence, that Specialized's conduct violated the discharge injunction. Based on the evidence presented, the tentative ruling is that Debtor has not met that burden.

For the reasons set forth above, the tentative ruling is to discharge the OSC and deny the motion.

Proposed order: Specialized is directed to lodge a proposed order via LOU within 7 days after the hearing date and attach a copy of this entire tentative ruling (including the incorporated tentative rulings for all prior dates copied below), thereby adopting it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone**. You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless

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otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 6/29/21:
Appearances required.

This Court's 6/15/21 tentative ruling (copied below) waived appearances; but based on the representations of Specialized Loan Servicing LLC, relayed by Debtor's Counsel at that hearing, this Court instead continued the hearing to this date. There is no tentative ruling but the parties should be prepared to update this Court on whether they have resolved their disputes or if, instead, this Court should revise the briefing schedule set forth in the 6/15/21 tentative ruling.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 6/15/21:

Continue for further briefing as set forth below. Appearances are not required on 6/15/21.

This Court is puzzled by the parties' failure to arrive at an agreed statement that can be submitted to any prospective lender setting forth the facts. Such basic facts as the date and dollar amount of each payment, and

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whether any payments received in 2020 were late, should be independently verifiable and not subject to any reasonable dispute. But it appears that the parties have been unable to agree on any such statement, so the tentative ruling is to set a schedule for briefs and evidence and a continued hearing on whether to issue a finding and conclusion of contempt of court and impose sanctions.

(1) Background

There appear to be two disputes. One, involving escrow payments and one purportedly late interest payment, appears to be irrelevant, but might be causing confusion. The second, involving timely payments that have been reported as late payments, appears to be the real focus of the parties' disputes.

(a) Escrow payments and one purportedly late interest payment

A long-running dispute apparently involved Debtor's failure to pay monthly amounts into escrow accounts - Debtor instead appears to have paid insurance and real estate taxes directly. The parties' papers never explained this in sufficient detail, but this Court arrived at that conclusion based on its own detailed analysis. See Tentative Rulings for 3/20/18 and 5/8/18 hearings (reproduced below).

In any event, the dispute was settled by a 2018 stipulation providing that the loan would be "de-escrowed for taxes and insurance, commencing with the February 1, 2017 monthly installment" and that Debtor would receive a small refund (\$1,965.66) and a waiver of some late charges (\$1,849.30). See Stipulation between Debtor and Wells Fargo Bank, N.A., as servicer for U.S. Bank National Association, as Trustee Prime Mortgage Trust, Mortgage Pass-Through Certificates, Series 2006-2 ("US Bank"), attached as Ex.P to Motion for OSC (dkt. 140) (at PDF pp. 133-37) and Order thereon (Ex.Q, at PDF pp.138-39). Specialized's own Response (Ex.C) to the Chapter 13 Trustee's notice that Debtor had cured all defaults (Ex.B) appears to show that Debtor is current. See Ex.B&C to Motion for OSC (dkt.140, at PDF pp.29-33).

Now Debtor reports that that he has been wrongfully accused by US Bank's current servicer, Specialized Loan Servicing LLC ("Specialized") of being "in arrears for \$2828.69 due to an escrow shortage. See Exhibit K to Debtor's declaration." Motion for OSC (dkt. 140), p.3:10-13. But Exhibit K

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(dkt.140, at PDF pp.109-110) says nothing about any escrow shortfall - to the contrary, it states:

The amount of the debt as of 12/08/2020 is \$404,193.45. For informational purposes, this amount is comprised of the following: unpaid principal of \$401,364.76, deferred balance total of \$0.00, uncollected interest of \$2,828.69, **escrow balance/advances of \$0.00**, and outstanding fees of \$0.00." [Dkt.140, Ex.K, at PDF p.109, emphasis added.]

As for the above-referenced "uncollected interest of \$2,828.69," Specialized explained on 2/1/21 that the funds were received and applied to the account on 12/9/20. See Ex.H to Motion for OSC (dkt.140) at PDF p.44. Debtor has not pointed to evidence that this is incorrect, so perhaps this is no longer an issue.

(b) Debtor's apparently timely payments that have been wrongly reported as late payments

Debtor appears to be on firmer ground when he alleges that he applied for a home refinance in 2021 but that his attempted refinance was denied for the sole reason that Specialized reported that he was "**9 times delinquent in 2020**," citing Exhibit E to his Motion for OSC (dkt. 140), p.3:16-22 (emphasis added). That is supported by three types of evidence.

First, Exhibit E (dkt.140 at PDF p.36) is a Verification of Mortgage from Specialized to Debtor dated "01/06/21" asserting that "last year" (2020) Debtor was delinquent 9 times, from 15 days to over 90 days. Second, Debtor's Exhibit F is a letter from Right Choice Mortgage stating that it "is unable to refinance Mr Tribelsky for the sole reason that upon receiving the Verification of Mortgage from [Specialized] it came back with the following information [tracking 8 of the 9 purported delinquent payments] (see attached statement)." Ex.F to Motion for OSC (dkt.140, at PDF p.41). Third, attached as Exhibit I is Debtor's correspondence with Specialized, dated 1/22/21, enclosing evidence appearing to show that Debtor made all of his 2020 mortgage payments timely. Ex.I to Motion for OSC (dkt.140) at PDF pp.52-79.

Debtor also has provided evidence that Specialized has not addressed these allegations. For example, Specialized's letter dated 2/1/21 states, "We have researched your account and our records indicate that the interest described in your dispute [the one purportedly late interest payment that

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apparently was cured with the payment received on 12/9/20] was not in error." Ex.H to Motion for OSC (dkt.140, at PDF p.44). Specialized's letter does not address the (apparently erroneous) report of 9 delinquencies in 2020. See *also* Ex.J (2/9/21 letter from Specialized to Debtor) (dkt.140, at PDF p.80).

In sum, Debtor has presented *prima facie* evidence that Specialized was reporting delinquencies that did not actually exist. On that basis this Court granted Debtor's motion for issuance of an OSC.

(2) Current status

On 4/7/21 this Court issued its "Order to Show Cause as to Why Specialized Loan Servicing LLC Should Not be Held in Contempt For Violation of Debtor's Discharge Injunction" (dkt. 146, the "OSC") which set a 6/14/21 deadline for the parties to complete discovery. Debtor's status report (dkt. 148) states that the parties have not been able to settle their disputes and that Debtor has propounded, and Specialized has responded to, Debtor's interrogatories, requests for admission, and requests for documents.

The tentative ruling is to set a **deadline of 6/25/21** for Specialized to file and serve its response to the OSC, including declarations and evidence (if any) to rebut Debtor's *prima facie* showing that Specialized has violated the discharge injunction of 11 U.S.C. 524, is in contempt of court, and is subject to sanctions. The tentative ruling is to set a **deadline of 7/9/21** for Debtor's reply, and a non-evidentiary hearing on **7/20/21 at 11:00 a.m.**, at which time this Court will determine if there are any matters that require an evidentiary hearing or other procedures.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

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Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, August 3, 2021

Hearing Room 1545

11:00 AM

CONT... Boaz Tribelsky

Chapter 13

Tentative Ruling for 4/6/21:
Appearances required.

There is no tentative ruling. The parties should be prepared to address the issues raised in Debtor's motion (dkt. 140) and this Court's order setting this hearing (dkt. 142), including (a) whether they have met and conferred about a possible resolution of their dispute(s) and (b) whether this Court should (i) set a briefing schedule and an evidentiary hearing re contempt/sanctions, (ii) order the parties to mandatory mediation and/or (iii) order some other appropriate disposition.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

**COPY OF TENTATIVE RULINGS ON RELATED MOTION
(dkt. 58) FOR RELIEF FROM AUTOMATIC STAY
Tentative Ruling for 5/8/18:**
Appearances required.

At the hearing on 3/20/18, this Court continued the matter to this date and directed (1) debtor to commence making higher payments to Movant in the amount of \$4,079.99 (\$3,698.51 P&I + \$381.48 escrow); and (2) set deadlines for (a) Movant to file a supplemental declaration regarding recalculation of the appropriate monthly escrow fund payment, and (b) debtor to file a response.

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CONT... Boaz Tribelsky

Chapter 13

This Court has reviewed Movant's supplemental declaration (dkt. 68) and debtor's response (dkt. 72). The parties should be prepared to address whether they have reached any resolution regarding debtor's contention that Movant has not taken into account any credits received from hazard insurance and county taxes.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/20/18:

Grant in part, deny in part, and continue to 4/10/17 at 10:00 a.m., all as set forth below. Appearances required.

(1) Background

The parties appear to agree that the debtor has made monthly payments of \$3,698.51 (the normal amortizing principal and interest payments). Those payments were due on the first day of each month, and generally were paid a few days later. See dkt. 8, Ex.5 (movant's spreadsheet) and dkt. 61, Ex.A, & dkt. 62) (debtor's copies of cashier checks). The motion lists some late charges, attorney fees, and other items (dkt. 58, p.7, para.8), but those do not appear to have been included in the movant's spreadsheet (dkt. 58, Ex.5, at PDF pp.30-33), perhaps because the listed amounts are for prepetition periods. In any event, the core of the parties' disagreement appears to involve an escrow impound account to pay real estate taxes and property insurance premiums.

(2) The debtor's assertions of "improper" escrow impounds are unpersuasive

The debtor's declaration (dkt. 61, Tribelsky Decl., para.9, at PDF p.7:24-28) asserts that the impound is "improper" and that the debtor has "struggled with [movant] Wells Fargo to have them end these impounds." The debtor also declares (dkt. 61, at PDF p.7:16-22) that there was an "improper increase" in monthly payments starting on March 1, 2016, which he

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CONT... **Boaz Tribelsky**

Chapter 13

believes was due to an escrow impound for taxes and insurance.

The debtor fails to explain why there is anything "improper" about requiring him to pay into an escrow for real estate taxes and insurance. The loan documents (dkt. 8, Ex.1, para.3, pp.4-5) require the debtor to make escrow payments for taxes and insurance premiums on the same date at the payments of principal and interest.

It is true that the movant apparently had not required escrow payments for some unspecified period prior to March 1, 2016. See Notice of Mortgage Payment Change (Official Form 410S1) (the "Change Notice"), filed 1/19/16 on the Claims Register, at PDF pp.5-6 (requiring monthly payments of \$351.96 commencing March 1, 2016). But if the debtor is asserting some sort of waiver that argument is unpersuasive. The Deed of Trust provides (dkt. 58, Ex.1, para.3, pp.4-5) that although the movant may waive the escrow requirement, the movant "may revoke the waiver as to any or all Escrow Items at any time" and then the debtor "shall pay" all escrow amounts.

The debtor apparently just ignored his obligation to pay escrow impound amounts. Instead he has presented evidence (dkt. 61, Ex.B, at PDF pp.38 et seq.) that he paid taxes directly to the tax authorities and insurance premiums directly to the insurers.

It appears that the movant must have credited the debtor's direct payments of taxes and insurance, because its Change Notice filed on 10/18/16 lists a low estimated "Starting balance" of \$861.27 as of December 2016 (although that apparently assumes that the debtor would start making his required escrow payments). In any event, the movant's Change Notice is *prima facie* evidence of the validity of this underlying calculation in support of its claim, and the debtor has not established that there is anything wrong with the movant's accounting included in its Change Notice filed on 10/18/16.

Similarly, by the time of the next Change Notice it appears that the movant must have once again credited the debtor's direct payments of taxes and insurance because, the escrow account projections ("Part 3") project a required "Starting balance" for March 2018 of only \$762.96 (although, again, this appears to assume that the debtor will have made certain payments into the escrow account by the start of March 2018). In any event, the debtor has not shown that there is anything wrong with this supporting underlying documentation of the movant's claim.

(3) Despite the deficiencies in the debtor's arguments and evidence, it

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CONT...

Boaz Tribelsky

Chapter 13

appears that the motion itself fails to account for the debtor's direct payments of real estate taxes and insurance

The motion asserts (dkt. 58, p.9, para.12.c.) that the debtor was behind three payments of \$4,053.45, for a total of \$12,160.35, less a suspense account balance of \$1,166.12, for a total of \$10,994.23 as of approximately 12/12/18 (when the declaration in support of the motion was signed). But unlike the Change Notices the motion does not appear to give the debtor credit for direct payments of real estate taxes and insurance.

Based on the spreadsheet attached to the motion as Exhibit 5 (dkt. 58, at PDF pp.30-33), the alleged shortfall of \$10,994.23 appears to be the cumulative sum of all the shortfalls between the \$3,698.51 that the debtor was paying each month (the normal amortizing principal and interest payments) and the higher monthly amounts that he should have been paying in order to fund the escrow account. There are no entries in the spreadsheet that appear to reflect the debtor's direct payments of taxes and insurance.

Nor is it possible to rely on the latest Change Notice to determine precisely what the debtor owes. At first glance that Change Notice would appear to have current information because it was filed on 3/5/18, but it provides only a projected shortfall of \$762.96 in the escrow account as of March 2018 (3/5/18 Charge Notice at PDF p.6, Part 3, end of first line). That projection probably is too low, because it appears to assume that part of the debtor's monthly payment is credited to the escrow account in January of 2018, and that the debtor will make some very substantial payments in February and March of 2018, and that the real estate taxes that are due in March of 2018 will be paid out of those escrow payments (*see id.*, Part 4, 2d and 5th columns, rows for January, February, and March, including credits of \$1,281.90, \$9,810.75, and \$354.94, and debit of \$1,612.38).

The bottom line is that although the movant has not established precisely what the debtor owes, it has established cause for some sort of relief from the automatic stay - namely, there is "cause" within the meaning of 11 U.S.C. 362(d)(1) in that the debtor has failed for many months to comply with his obligations to fund the escrow account, which exposes the movant to the risk that it will have to bear the cost if the debtor fails to pay real estate taxes or insurance (especially if the property were to be damaged or completely burn down). The required adequate protection is for the debtor to cure the deficiency in the escrow account over a reasonable period of time.

The latest Change Notice (filed 3/5/18) can be used as a starting point.

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CONT... Boaz Tribelsky

Chapter 13

It requires that the debtor pay \$381.48 per month into the escrow account, in addition to his regular monthly payments of \$3,698.51 on account of principal and interest, for total monthly payments of \$4,079.99. The escrow payments may have to be adjusted (as noted above, the Change Notice appears to assume that the debtor will have made some very substantial payments by the start of March 2018), but this Court can set a schedule for such adjustment (see below).

(4) Conclusion

The tentative ruling is to set a deadline of 4/1/18 for the debtor (a) to file evidence that he has paid the March 2018 real estate tax payment directly to the taxing authority and (b) to commence making monthly payments of \$381.48 into the escrow account, in addition to his regular monthly payments of \$3,698.51 on account of principal and interest, for total monthly payments of \$4,079.99.

In addition, the tentative ruling is to set a deadline of 4/1/18 for the movant to file a supplemental declaration showing a calculation of the required escrow balance as of 5/1/18, the required monthly payments for the debtor to cure the deficiency in that escrow balance, and the resulting new total monthly payment that the debtor will have to pay on 5/1/18 and each month thereafter.

Finally, the tentative ruling is to set a continued hearing at the date and time set forth at the start of this tentative ruling, so that the parties and this Court can address what to do if the debtor disputes the movant's calculations.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Boaz Tribelsky

Represented By
Michael F Chekian

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Los Angeles
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CONT... Boaz Tribelsky

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Hearing Room 1545

11:00 AM

2:19-10552 Attitude Marketing, Inc.

Chapter 7

Adv#: 2:20-01147 Gonzalez v. MacMillan et al

#3.00 Cont'd status conference re: Complaint 1. Actual Fraudulent Transfer [Bankruptcy Code Section 548(1)(a); Cal. Civ.Code Section 3439.04(A)(1) 2. Constructive Fraudulent Transfer [Bankruptcy Code Section 548(1)(b); Cal. Civ. Code Sections 3439.04(B)(2) and 3439.05] 3. To Recover Shareholder Loans 4. For Money Had and Received 5. To Avoid Preferential Payments (11 U.S.C. Section 547) fr. 9/1/20, 12/1/20, 1/12/21

Docket 1

***** VACATED *** REASON: This matter is scheduled to be heard on 12/14/21 at 11:00 a.m.**

Tentative Ruling:

Party Information

Debtor(s):

Attitude Marketing, Inc.

Represented By
James A Dumas Jr
Christian T Kim

Defendant(s):

David MacMillan

Represented By
Robert S Altagen

Cynthia Barrett Martin

Represented By
Robert S Altagen

Plaintiff(s):

Rosendo Gonzalez

Represented By
James A Dumas Jr
Christian T Kim

Trustee(s):

Rosendo Gonzalez (TR)

Represented By

**United States Bankruptcy Court
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CONT... Attitude Marketing, Inc.

Chapter 7

Christian T Kim
James A Dumas Jr

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Tuesday, August 3, 2021

Hearing Room 1545

11:00 AM

2:17-19548 Layfield & Barrett, APC

Chapter 11

#4.00 Cont'd Status Conference re: Chapter 11 Case
fr. 9/19/17, 10/17/17, 4/17/18, 5/1/18, 7/10/18, 9/18/18,
10/26/18, 12/6/18, 12/18/18, 2/5/19, 03/05/19, 04/02/19
04/30/19, 06/04/19, 7/30/19, 9/10/19, 10/1/19, 10/15/19,
11/12/19, 12/10/19, 12/17/19, 2/18/20, 3/3/20, 03/31/20,
8/4/20, 9/1/20, 9/15/20, 12/8/20, 5/4/21, 7/20/21

Docket 323

Tentative Ruling:

Tentative Ruling for 8/3/21:

Continue as set forth below. Appearances are not required on 8/3/21.

(1) Current matters

(a) Related proceedings

The matters on calendar involve two related bankruptcy cases and associated matters: (a) *In re Layfield & Barrett, APC*, Case No. 2:17-bk-19548-NB ("L&B"); (b) *In re Layfield*, Case No. 2:18-bk-15829-NB ("Lay-Invol."); (c) *Pimentel v. Layfield et al*, Case No. 2:19-ap-01069-NB ("Pimentel Adv."), (d) *Pachulski v. Layfield*, Case No. 2:19-ap-01071-NB ("Pachulski Adv.").

This Court has no issues to raise *sua sponte* at this time. The tentative ruling is to continue all matters on today's calendar to the continued date set forth below.

(2) Deadlines/dates. The L&B case was filed as an involuntary chapter 7 on 8/3/17 and converted to chapter 11 on 8/11/17 (L&B dkt. 25). The Lay-Invol case was filed as an involuntary chapter 7 case on 5/21/18 and an order for relief was entered on 12/12/18 (Lay-Invol dkt. 160, 161).

(a) L&B Bar date: 2/5/18 (timely served, L&B dkt. 133, 157)

(b) Lay-Invol Bar date: 4/12/19 (timely served, Lay-Invol dkt.180)

(c) L&B Plan/Disclosure Statement*: TBD. Do not file or serve until further order of this Court.

(d) Continued status conference: 10/12/21 at 11:00 a.m. *Brief* status report due 9/28/21.

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CONT... Layfield & Barrett, APC

Chapter 11

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone**. You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Layfield & Barrett, APC	Pro Se
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Movant(s):

Layfield & Barrett, APC	Pro Se
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Trustee(s):

Richard Pachulski (TR)	Represented By Malhar S Pagay James KT Hunter
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**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, August 3, 2021

Hearing Room 1545

11:00 AM

2:18-15829 Philip James Layfield

Chapter 7

#5.00 Cont'd Status Conference re: Chapter 7 Involuntary
fr. 07/17/18, 08/14/18, 09/04/18, 09/18/18, 10/26/18,
12/6/18, 12/18/18, 02/05/19, 03/05/19, 04/02/19,
04/30/19, 06/04/19, 7/30/19, 10/1/19, 10/15/19, 11/12/19,
12/10/19, 02/18/20, 3/3/20, 03/31/20, 8/4/20, 12/8/20,
5/4/21

Docket 1

Tentative Ruling:

Tentative Ruling for 8/3/21:

Please see the tentative ruling for the status conference in the *Layfield & Barrett* case (Calendar No. 4, 8/3/21 at 11:00 a.m.).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Philip James Layfield

Represented By
Anthony M Solis

Trustee(s):

Wesley H Avery (TR)

Represented By
Jeffrey I Golden
Faye C Rasch
Beth Gaschen
Ryan W Beall

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, August 3, 2021

Hearing Room 1545

11:00 AM

2:18-15829 Philip James Layfield

Chapter 7

Adv#: 2:19-01069 Pimentel v. Layfield et al

#6.00 Cont'd Status Conference re: Complaint Against Dischargeability
1) Declaratory Relief and 2) Fraudulent Transfer / Concealment
fr. 5/21/19, 06/04/19, 7/30/19, 10/1/19, 03/31/20, 8/4/20,
12/8/20, 5/4/21

Docket 1

Tentative Ruling:

Tentative Ruling for 8/3/21:

Please see the tentative ruling for the status conference in the *Layfield & Barrett* case (Calendar No. 4, 8/3/21 at 11:00 a.m.).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Philip James Layfield

Represented By
Anthony M Solis

Defendant(s):

Philip J Layfield

Pro Se

WESLEY Howard AVERY

Pro Se

Affeld Grivakes LLP

Represented By
Damion Robinson

Plaintiff(s):

Rodney A Pimentel

Represented By
Yana G Henriks

Trustee(s):

Wesley H Avery (TR)

Represented By
Jeffrey I Golden

**United States Bankruptcy Court
Central District of California
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Hearing Room 1545

11:00 AM

CONT...

Philip James Layfield

Chapter 7

Faye C Rasch
Beth Gaschen
Ryan W Beall

**United States Bankruptcy Court
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Hearing Room 1545

11:00 AM

2:18-15829 Philip James Layfield

Chapter 7

Adv#: 2:19-01071 Richard M. Pachulski, Chapter 11 Trustee of the Ba v. Layfield

#7.00 Cont'd Status Conference re: Complaint to Determine the Non-Dischargeability of Certain Debts Owed by Philip James Layfield to Richard M. Pachulski, Chapter 11 Trustee of the Bankruptcy Estate of Layfield & Barrett, APC.
fr. 05/21/19, 11/5/19, 03/31/20, 8/4/20, 12/8/20, 5/4/21

Docket 1

Tentative Ruling:

Tentative Ruling for 8/3/21:

Please see the tentative ruling for the status conference in the *Layfield & Barrett* case (Calendar No. 4, 8/3/21 at 11:00 a.m.).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Philip James Layfield

Represented By
Anthony M Solis

Defendant(s):

Philip James Layfield

Pro Se

Plaintiff(s):

Richard M. Pachulski, Chapter 11

Represented By
James KT Hunter

Trustee(s):

Wesley H Avery (TR)

Represented By
Jeffrey I Golden
Faye C Rasch
Beth Gaschen

**United States Bankruptcy Court
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Tuesday, August 3, 2021

Hearing Room 1545

1:00 PM

2:20-20909 VEEJ Corp

Chapter 11

#1.00 [CASE DISMISSED 6/10/2021]

Hrg re: Application for payment of final fees and/or expenses
[Susan K. Seflin, SubChapter V Trustee]

Docket 98

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 2,
8/3/21 at 1:00 p.m.).

Party Information

Debtor(s):

VEEJ Corp

Represented By
Jeffrey S Shinbrot

Trustee(s):

Susan K Seflin (TR)

Pro Se

**United States Bankruptcy Court
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Los Angeles
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Tuesday, August 3, 2021

Hearing Room 1545

1:00 PM

2:20-20909 VEEJ Corp

Chapter 11

#2.00 **[CASE DISMISSED 6/10/2021]**

Cont'd Status Conference re: Chapter 11 Case
fr. 1/5/21, 1/26/21, 03/02/21, 3/23/21, 4/6/21,
5/4/21

Docket 1

Tentative Ruling:

Tentative Ruling for 8/3/21:

Appearances are not required.

(1) Current issues

(a) Final fee application of Susan K. Seflin, SubChapter V Trustee (dkt. 98 "Application"), no opposition is on file

The tentative ruling is to grant the Application approving fees of \$10,448.00 and \$0.00 in expenses for a total award of \$10,448.00.

(2) Deadlines/dates. This case was dismissed on 6/10/21.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone.** You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall

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1:00 PM

CONT... VEEJ Corp
are no longer permitted.

Chapter 11

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

VEEJ Corp

Represented By
Jeffrey S Shinbrot

Trustee(s):

Susan K Seflin (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Tuesday, August 3, 2021

Hearing Room 1545

1:00 PM

2:20-15954 John Martin Kennedy

Chapter 11

#3.00 Hrg re: Second and Final Fee Application of
Leech Tishman Fuscaldo & Lampl, Inc.,
Reorganization Attorneys to the Debtor for
Compensation and Reimbursement of Expenses

Docket 380

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 4,
8/3/21 at 1:00 p.m.).

Party Information

Debtor(s):

John Martin Kennedy

Represented By
Sandford L. Frey
Dennette A Mulvaney

**United States Bankruptcy Court
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Tuesday, August 3, 2021

Hearing Room 1545

1:00 PM

2:20-15954 John Martin Kennedy

Chapter 11

#4.00 Cont'd Status Conference re: Chapter 11 Case
fr. 7/14/20, 7/28/20, 8/18/20, 9/15/20, 9/29/20,
10/27/20, 11/10/20, 12/1/20, 12/8/20, 12/22/20,
01/26/21,3/23/21, 4/6/21, 4/27/21, 5/4/21, 6/15/21

Docket 1

Tentative Ruling:

**Tentative Ruling for 8/3/21:
Appearances required.**

(1) Current issues

(a) Final fee application (dkt. 380, 381, "Fee Application") of Leech Tishman Fuscaldo & Lampl, Inc. ("Applicant"), Objection of Yunuen Campos (dkt. 383), Applicant's reply (dkt. 392)

The tentative ruling is (i) to overrule Ms. Campos' objections and allow the fees except as set forth below, for the reasons stated in Applicant's papers (including that Applicant has already voluntarily reduced its fee request by over 90 hours (dkt. 392, p.11:4-6)), but (ii) to defer entering a final ruling and continue this matter to be concurrent with another professional's fee application and the continued post-confirmation status conference (see Section (2)(d) below).

Without limiting the generality of the foregoing, this Court adds the following analysis on specific issues.

(i) Fees relating to the disclosure statement and plan

The first item to which Ms. Campos objects is the time spent in connection with the disclosure statement and plan. The tentative ruling is that this time was reasonable and appropriate.

Ms. Campos argues that 276 hours for this category is "excessive" because this case is "not complex" and "essentially a two-party dispute" (dkt. 383, pp. 4:24-25 & 5:9-10), but she does not point to any specific time entries she believes are inappropriate. Nor does Ms. Campos acknowledge that she is largely responsible for the time Applicant expended drafting the relevant papers, reviewing and responding to her objections, and drafting proposed modifications addressing Ms. Campos' objections.

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(ii) Fees relating to opposing motion for stay pending appeal and supplemental briefing

The second item to which Ms. Campos objects is the time spent on opposing a stay pending appeal. Dkt. 383, pp. 5:11-8:16. The tentative ruling is this time was reasonable and appropriate.

Appeals can take years, and meanwhile Debtor and his other creditors and Applicant all want to be able to get on with their lives. In addition, it is unclear why Ms. Campos would want a stay: the Plan reserves her rights on issues she has been litigating and that are on appeal, and meanwhile if the Plan is not stayed (as this Court ordered) then she will start receiving payments, whereas if it were to be stayed she would not.

If anything, the parties' dispute on this issue illustrates that this case would have been much cheaper if Ms. Campos had not been as litigious. Of course, she is entitled to protect her rights and entitlements, as she sees them, but she cannot have it both ways by increasing the amount of litigation and then objecting to her opponent's proportionate and reasonable fees to respond to that litigation.

(iii) Fees related to drafting motion for reconsideration regarding BAP's determination as to finality of order on appeal

The third item to which Ms. Campos objects is the time spent drafting a motion for reconsideration which was never filed. Dkt. 383, pp.8:19-9:13. The tentative ruling is to overrule the objection because it is not appropriate to second guess Applicant's judgment with "20/20 hindsight" simply because the motion was never filed. Rather, the Bankruptcy Appellate Panel for the Ninth Circuit has explained:

Section 330(a)(3)(A)(C) clearly states that the question governing attorney compensation should be whether services were necessary or beneficial 'at the time at which the service was rendered' ... The statute does not require that the services result in a material benefit to the estate in order for the professional to be compensated; the applicant must demonstrate only that the services were 'reasonably likely' to benefit the estate at the time the services were rendered.

[*In re Mednet*, 251, B.R. 108 (9th Cir. BAP 2000)]

The tentative ruling is that Applicant's papers (dkt. 392, pp. 9:19-10:12) establish that the services were reasonably likely to benefit the estate at the time the services were rendered. In addition, this Court takes judicial notice that the issue of "finality" of orders in bankruptcy cases is one of the most

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complex and least certain areas of bankruptcy law, in this Court's experience.

One of the reasons for that complexity and uncertainty is the competing policy concerns with which appellate courts have wrestled, such as the attempt to avoid piecemeal litigation, the attempt to provide speedy and efficient appellate review, and the intelocking nature of some disputes in bankruptcy cases. It is both understandable and expected that, in attempting to address these and similar concerns, some time inevitably will be spent on initial research and drafting, only to determine that other approaches are best for the bankruptcy estate.

In sum, the tentative ruling is that the time spent on this issue is modest and appropriate, particularly compared with the complexity and importance of the issues. The tentative ruling is to allow all fees in this category.

(iv) Fees related to defending Applicant's first interim fee application

The fourth item to which Ms. Campos objects is the time spent defending its first interim fee application. Dkt. 383, pp. 9:16-10:2. The tentative ruling is to sustain the objection and disallow the requested \$7,494.00 in fees (*i.e.*, per Objection, dkt.383, at pp. 9:25-10:2, the dollar amounts are \$7,332.00 + \$162.00 = \$7,494.00).

The tentative ruling is that the services rendered are not compensable under the rule announced in *Baker Botts*, 576 U.S. 121, 134-35 (2015). Applicant has not cited any authority holding that this Court has the "equitable powers" to distinguish the Supreme Court's binding authority on this issue.

(v) Fees for "Nonlegal" services

The fifth item to which Ms. Campos objects is the time spent preparing proofs of service and other allegedly "nonlegal" services. Dkt. 383, p.10:4:27.

The tentative ruling is to overrule the objection in part as to the two entries describing time spent reviewing and finalizing the proof of service for the solicitation package because this Court agrees with Debtor that such services require a certain amount of legal analysis to ensure proper service.

The tentative ruling is also to sustain the objection in part and disallow time requested for the following entries:

<u>Task/comments</u>	<u>Requested</u>	<u>Allowed</u>
-11/16/2020 Prepare Supplemental Proof of Service -Secretarial in nature	0.30 (\$162.00)	0

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	-03/09/2021 <i>Checked docket for fee judgment</i>	0.30 (\$180.00)	0
	-Secretarial in nature		
		Totals: 0.60 (\$342.00)	0

(vi) Conclusion as to reasonableness of fees

For the reasons set forth above, the tentative ruling is to allow **\$491,056.00 in fees** (*i.e.*, \$498,892.00 - \$7,494.00 - \$342.00 = \$491,056.00) plus **\$3,188.55 in costs**, for a final award of **\$494,244.55**, but defer entering a final ruling until the continued hearing.

(vi) Payment of any approved fees/costs

The tentative ruling is to defer ruling on this issue until the continued hearing, so that this Court can determine whether payments to other professionals have any impact on the timing of payments to Applicant.

(2) Deadlines/dates. This case was filed on 6/30/20.

- (a) Bar date: 10/2/20 (dkt. 39) (timely served, dkt. 52)
 - (b) Procedures order: dkt.4 (timely served, dkt.18).
 - (c) Plan (dkt. 250, 251, 265)/Disclosure Statement* (dkt. 251): Plan confirmed (dkt. 352); effective date 6/25/21 (dkt. 373).
 - (d) Post-confirmation status conference: 8/17/21 at 1:00 p.m., concurrent with other matters. No written status report required.
- *Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

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[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

John Martin Kennedy

Represented By
Sandford L. Frey
Dennette A Mulvaney

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2:20-19443 Joshuaville, LLC

Chapter 11

#5.00 Hrg re: Motion to Dismiss Chapter 11 Case

Docket 104

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 9, 8/3/21 at 1:00 p.m.).

Party Information

Debtor(s):

Joshuaville, LLC

Represented By
Leslie A Cohen

Trustee(s):

Moriah Douglas Flahaut (TR)

Pro Se

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2:20-19443 Joshuaville, LLC

Chapter 11

**#6.00 Hrg re: First Application Of Subchapter V Trustee
For Allowance And Payment Of Fees**

Docket 108

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 9,
8/3/21 at 1:00 p.m.).

Party Information

Debtor(s):

Joshuaville, LLC

Represented By
Leslie A Cohen

Trustee(s):

Moriah Douglas Flahaut (TR)

Pro Se

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Chapter 11

#7.00 Cont'd hrg re: Motion Objecting to Claim Number 3 by
Claimant March1 LLC & MarchLife3 LLC.
fr. 6/29/21, 7/27/21

Docket 77

Tentative Ruling:

Tentative Ruling for 8/3/21:

Please see the tentative ruling for the status conference (Calendar No. 9, 8/3/21 at 1:00 p.m.).

Tentative Ruling for 6/29/21:

Please see the tentative ruling for the Status Conference (Calendar No. 4, 6/29/21 at 1:00 p.m.).

Party Information

Debtor(s):

Joshuaville, LLC

Represented By
Leslie A Cohen

Movant(s):

Joshuaville, LLC

Represented By
Leslie A Cohen

Trustee(s):

Moriah Douglas Flahaut (TR)

Pro Se

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#8.00 Cont'd hrg re: Motion To Compel The Debtor To Properly Assume Or Reject Contract Or Dismiss Case fr. 5/4/21, 6/15/21, 6/29/21, 7/27/21

Docket 66

Tentative Ruling:

Tentative Ruling for 8/3/21:

Please see the tentative ruling for the status conference (Calendar No. 9, 8/3/21 at 1:00 p.m.).

Tentative Ruling for 6/29/21:

Please see the tentative ruling for the Status Conference (Calendar No. 4, 6/29/21 at 1:00 p.m.).

Tentative Ruling for 6/15/21:

Please see the tentative ruling for the Status Conference (Calendar No. 12, 6/15/21 at 1:00 p.m.).

Tentative Ruling for 5/4/21:

Please see the tentative ruling for the Status Conference (Calendar No. 4, 5/4/21 at 1:00 p.m.).

Party Information

Debtor(s):

Joshuaville, LLC

Represented By
Leslie A Cohen

Movant(s):

March 1 and 3

Represented By
Dennis E McGoldrick

Trustee(s):

Moriah Douglas Flahaut (TR)

Pro Se

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#9.00 Cont'd Status Conference re: Chapter 11 Case
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4/6/21, 4/27/21, 5/4/21, 6/15/21, 6/29/21, 7/27/21

Docket 1

Tentative Ruling:

Tentative Ruling for 8/3/21:

Appearances required.

(1) Current issues

(a) Debtor's Motion to Dismiss Chapter 11 Case ("MTD," dkt. 104); Limited Opposition of March 1 LLC and MarchLife3, LLC (the "March Entities") (dkt. 111); Limited Response and Statement of Non-Opposition of M. Douglas Fahaut, SubChapter V Trustee (dkt. 112), Debtor's reply (dkt. 114)

Grant the MTD subject to the conditions set forth in the limited oppositions of the March Entities (dkt. 111) and the Trustee (dkt. 112). The parties are directed to address whether, in addition to the Trustee's fees and expenses, any other administrative expenses or fees will need to be paid out of the small bank balance - only \$3,030.00 as of the end of June, 2021 as reflected on Debtor's latest monthly operating report (dkt.113).

(b) Motion of March Entities to compel Debtor to assume or reject contract, or alternatively for dismissal of case (the "Assumption Motion," dkt. 66); Debtor's Opposition (dkt. 69); March Entities' Reply (dkt. 70), Debtor's Supp. Opp. (dkt. 76); March Entities' Supp. Reply (dkt. 81); interim Order (dkt. 95)

Grant the Assumption Motion on a final basis, and hold that the subject Participation Agreement is REJECTED, based on Debtor's failure to make the partial payment required by this Court's interim order on 6/28/21. See Order (dkt. 95), p.5. The tentative ruling is to reject Debtor's argument that the parties should be returned to their prepetition status pursuant to 11 U.S.C. 349. Reply (dkt. 114), pp. 2:8-4:12.

First, as Debtor acknowledges (*id.*, p. 2:22-23), section 349 does not

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provide an absolute rule. It expressly provides that the dismissal of a bankruptcy case restores the prepetition status "[u]nless the court, for cause, orders otherwise." 11 U.S.C. 349(b).

Second, there is "cause" to order otherwise because it is impossible to return the parties to their prepetition status. Time has passed, and the March Entities are up against their own deadline. As stated in this Court's interim order, the first payment deadline and amount were "intended to approximate what the March Entities will need in order to be in a financial position to be able to meet their own obligations, under their Disposition & Development Agreement to develop a portion of the land previously known as March Airforce Base." Order (dkt. 95), p.2:16-19. Debtor failed to meet the first payment deadline, and that deadline would be meaningless if Debtor could assert now that the contract is not rejected.

Third, the March Entities' Assumption Motion expressly requested that this Court compel Debtor to assume "or reject" the parties' contract by a date certain (dkt. 66, p.5:22-23), and the order was intended to do that. See Order (dkt. 95), pp. 3:22-4:12 (discussing exercise of discretion to "set a deadline for Debtor to assume or reject" the parties' contract). If Debtor could do an end-run around the deadline, and evade rejection of the parties' contract via dismissal of this bankruptcy case, that would undermine the balance that this Court was attempting to strike between protecting Debtor's interests and the March Entities' interests.

Fourth, even if this Court had not already intended for the result of missing the deadline to be rejection of the contract (which was this Court's intent), the tentative ruling is that such result is the only equitable outcome. Debtor has had the benefit of the automatic stay, and all of the tools that are available in a bankruptcy case to attempt to cure defaults that would not be curable outside of bankruptcy. It would be unfair to permit Debtor, at this late stage, to attempt to retain rights to proceed under a contract that Debtor admits it could not perform within the deadline set by this Court.

(c) Debtor's Objection to the Claim of the March Entities (Claim No. 3) (dkt. 77); Opposition of March Entities (dkt. 86); Debtor's Reply (dkt. 91)

The tentative ruling is that Debtor's Objection to the Claim of the March Entities is resolved as MOOT in light of the tentative ruling to grant Debtor's Motion to Dismiss.

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Proposed orders: The March Entities are directed to lodge proposed orders on items "(1)(a), "(1)(b)," and "(1)(c)" above, via LOU within 7 days after the hearing date, attach a copy of this tentative ruling to the order on item "(1)(b)," and incorporate into the other orders by reference the same tentative ruling. See LBR 9021-1(b)(1)(B).

(d) First Application of SubChapter V Trustee ("Applicant") for Allowance and Payment of Fees (dkt. 108), no opposition is on file

The tentative ruling is to grant the Application approving fees of \$8,826.50 and \$31.85 in expenses for a total award of \$8,858.35, and authorize payment to the extent of available funds (see item "(1)(a)" above).

Proposed order: Applicant is directed to lodge a proposed order on the foregoing motion via LOU within 7 days after the hearing date and attach a copy of this tentative ruling, thereby adopting it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed, as a Subchapter V case, on 10/19/20.

(a) Bar date: 12/28/20 per General Order 20-01 (70 days after petition date in Subchapter V cases) (DO NOT SERVE any notice: one has already been sent, see dkt.9).

(b) Procedures order: dkt.4 (timely served, dkt.6).

(c) Amended Plan (dkt. 60): See above.

(d) Status conference: Concluded.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to

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[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Joshuaville, LLC

Represented By
Leslie A Cohen

Trustee(s):

Moriah Douglas Flahaut (TR)

Pro Se

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2:20-14175 Tea Station Investment Inc.

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#10.00 Cont'd hrg re: Debtor's Motion Objecting to Proof of Claims of Baodi Zhou, or in the Alternative, Motion to Estimate Claims fr. 04/27/21, 5/4/21, 6/15/21

Docket 184

Tentative Ruling:

Tentative Ruling for 8/3/21:

Please see the tentative ruling for the status conference (Calendar No. 11, 8/3/21 at 1:00 p.m.).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Tea Station Investment Inc.

Represented By
Leslie A Cohen

Movant(s):

Tea Station Investment Inc.

Represented By
Leslie A Cohen
Leslie A Cohen

Trustee(s):

John-Patrick McGinnis Fritz (TR)

Pro Se

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#11.00 Cont'd Status Conference re: Chapter 11 Case
fr. 7/28/20, 9/1/20, 9/15/20, 9/29/20, 12/22/20,
1/26/21, 3/9/21, 4/6/21, 04/27/21, 5/4/21, 6/1/21,
6/15/21

Docket 15

Tentative Ruling:

Tentative Ruling for 8/3/21:

Appearances required.

(1) Current issues

(a) Debtors' Motion Objecting to Proof of Claims of Baodi Zhou, or in the Alternative, Motion to Estimate Claims (the "Claim Objection," dkt. 184), interim Order (dkt. 226), Debtors' Supplement (dkt. 234-37), Claimant Ms. Baodi Zhou's Brief (dkt. 245), Debtors' Reply (dkt. 256-59), Order Assigning Matter to Mediation (dkt. 268), Mediator's report (no settlement) (dkt. 275)

The tentative ruling is to take this matter under submission for this Court to make whatever interim or final orders are appropriate on the record presented to date, and to set a continued hearing contemporaneous with the continued status conference (see part "(2)(d)" below).

(2) Dates/procedures. This case was filed on 5/4/20 and converted from chapter 7 to chapter 11 on 7/1/20 (dkt.17). The petition was amended to elect Subchapter V on 7/14/20 (dkt.27). On 9/4/20 this Court ordered joint administration with affiliated debtors (dkt.64).

(a) Bar date: (i) Investment 9/9/20 (dkt. 40; timely served, dkt. 43);
Affiliated Debtors 11/10/20.

(b) Procedures order: dkt.18 (timely served, dkt.20) (also timely served in each jointly administered case).

(c) Plan (dkt. 137): hearing TBD.

(d) Continued status conference: 8/31/21 at 1:00 p.m. No written status report required.

If appearances are not required at the start of this tentative ruling but you

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wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone**. You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 6/15/21:
Appearances required.

(1) Current issues

(a) Debtors' Motion Objecting to Proof of Claims of Baodi Zhou, or in the Alternative, Motion to Estimate Claims (the "Claim Objection," dkt. 184), interim Order (dkt. 226), Debtors' Supplement (dkt. 234-37), Claimant Ms. Baodi Zhou's Brief (dkt. 245), Debtors' Reply (dkt. 256-59)

There is no tentative ruling, but the parties are directed to address the issues raised in their papers, especially the following issues. This Court is particularly concerned whether Ms. Zhou has provided sufficient evidence that her own claims satisfy the commonality and typicality requirements for acting as a class representative, assuming without presently deciding that Rule 23 is applicable. See interim Order, dkt.226, Ex.A, at PDF p.7, part "(1)(c)" and *id.* sub-parts "(iii)" & "(iv)."

As Ms. Zhou recognizes, under Rule 23 her individual claims must have questions of law and/or fact in common with other putative class members that "predominate" over any questions affecting only individual members. See *generally* Zhou Brief (dkt.245), pp.28:10-29:6. Ms. Zhou asserts that Debtor Tea Station Investment, Inc. ("Debtor") harmed class members by (1) failing to pay for all hours worked or for overtime due to time

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rounding and time shaving, and failing to provide accurate wage statements due to such rounding and shaving and purportedly omitting correct employer information, (2) failing to provide compliant meal breaks and pay missed meal break premiums, and (3) failing to provide compliant rest breaks and pay missed rest break period premiums. Zhou Brief (dkt. 245), pp. 10:1–19:2, 21:6–26:13, *and* summary at pp.32:13-34:22. Therefore the issue is whether Ms. Zhou's own claims for those things have sufficient commonality and typicality of other putative class members' claims.

First, Ms. Zhou's brief does not highlight any specific evidence of her own payroll records, and specific instances in which she asserts rounding, time shaving, missed meal breaks, and missed rest breaks. True, she makes general assertions that might suffice for some issues - *e.g.*, at points her papers appear to assert that she *never* had rest breaks - but this Court remains concerned about the lack of greater specificity, such as allegations that although on day X she worked, say, 11 hours and 11 minutes, her paycheck and Debtor's records only reflected 8.0 hours. *But compare, e.g.*, Debtor's Reply (dkt.256), p.7:3-4 (asserting, without citation to any evidence, that "[e]ven Zhou herself admitted at her deposition that she was always allowed to take a break whenever she requested or chose") (emphasis in original).

Second, Ms. Zhou offers few examples of other employees' specific instances of rounding, time shaving, missed meal breaks, and missed rest breaks, and she appears to make presumptions to fill in the gaps. This issue may also bear on the "numerosity" requirement under Rule 23.

If Ms. Zhou can overcome the foregoing issues, and otherwise qualifies as a class representative against Debtor, then this Court envisions a claim estimation process in which this Debtor would present its own rebuttal analysis and/or specific disputes with Ms. Zhou's choice of data and analysis, and the parties would focus their disputes on calculations not unlike those presented by Ms. Zhou at the end of her brief - *e.g.*, estimating 88 employees, with 1,671 days multiplied by an estimated 11 minutes and 15 seconds per day, to arrive at a claim of \$36,879.48 for "time rounding," etc. See Zhou Brief (dkt.245), pp.33:5-34:22. Each party would be able to present its own data, methodology, and analysis, and challenge the other party's data, methodology, and analysis, in a trial to determine how to estimate the claims.

This Court recognizes that the underlying data, methodology, and analysis might not be as rigorous as they would be if time and money were no

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object (the "scorched earth" litigation to which this Court previously has referred). See, e.g., Order (dkt.226), Ex.A, at PDF p.6, part "(1)(b)." For example, Ms. Zhou's statistical evidence was prepared not by a statistician or similar expert but by her own counsel. But the tentative ruling is that, given her counsel's apparent experience, this goes to the weight of the evidence, not its admissibility.

Similarly, although Ms. Zhou complains that the "thousands of pages of time and pay records" produced by Debtor (Zhou Brief, dkt. 245, p.16:22) are fractured, incomplete, and otherwise difficult to analyze (*id.*, p.32:16 & attached D. Grimes Decl., pp.2:16–4:28, Ex. 2, Ex. 15), there does not appear to be any evidence that Debtor has intentionally caused any spoliation of records. Ms. Zhou's counsel apparently was able to conduct his statistical analysis based on wage statements and other records for 125 employees provided by Debtor (D. Grimes Decl., dkt. 245, p.5:1–5), and presumably Debtor could use the same data to do its own analysis and/or to challenge Ms. Zhou's analysis.

Again, the foregoing claim estimation process would only apply if Ms. Zhou could overcome the commonality and typicality issues noted above, and if she otherwise could qualify as a class representative. In other words, this Court's discussion of the contemplated claim estimation process is only included for completeness, and should not be interpreted as any presumption that Ms. Zhou can assert claims for the class she seeks to represent.

Note: As for any claims by employees of Debtor's affiliates, the tentative ruling is that this issue is premature. Ms. Zhou only briefly asserts a reservation of rights, arguing that "each corporate entity is managed by the same group of three individuals – Tea Station founder Yu-Liang 'Jimmy' Huang, his wife Teresa Pan, and lieutenant Chi-Fu 'Abraham' Kao." Zhou Brief (dkt.245), p.8:11-13. But this Court has issued an order (dkt.226) limiting claims at this stage to Debtor, and the tentative ruling is that unless and until Ms. Zhou can establish claims against Debtor it would be premature to address potential claims against Debtor's affiliates.

Finally, the parties are directed to address what further deadlines or procedures to establish, if this Court does not issue a final ruling on Debtor's Claim Objection at this hearing. The tentative ruling is that any continued hearing on this Claim Objection would be contemporaneous with the continued Status Conference (see below).

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CONT... Tea Station Investment Inc.

Chapter 11

(2) Dates/procedures. This case was filed on 5/4/20 and converted from chapter 7 to chapter 11 on 7/1/20 (dkt.17). The petition was amended to elect Subchapter V on 7/14/20 (dkt.27). On 9/4/20 this Court ordered joint administration with affiliated debtors (dkt.64).

- (a) Bar date: (i) Investment 9/9/20 (dkt. 40; timely served, dkt. 43);
Affiliated Debtors 11/10/20.
- (b) Procedures order: dkt.18 (timely served, dkt.20) (also timely served in each jointly administered case).
- (c) Plan (dkt. 137): hearing TBD.
- (d) Continued status conference: 7/20/21 at 1:00 p.m. No written status report required.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Tea Station Investment Inc.

Represented By
Leslie A Cohen

Movant(s):

Tea Station Investment Inc.

Represented By
Leslie A Cohen
Leslie A Cohen

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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CONT... Tea Station Investment Inc.

Chapter 11

Trustee(s):

John-Patrick McGinnis Fritz (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 1545

1:00 PM

2:18-15559 R44 LENDING GROUP, LLC a Delaware Limited Liabilit

Chapter 11

#12.00 Cont'd hrg re: Motion for Order Determining Amount
of Occupant Payments Pursuant To Debtor's
Confirmed Chapter 11 Plan
fr. 7/20/21

Docket 257

Tentative Ruling:

Please see the tentative ruling for the post-confirmation status conference
(Calendar No. 13, 8/3/21 at 1:00 p.m.).

Party Information

Debtor(s):

R44 LENDING GROUP, LLC a

Represented By
Jeffrey S Shinbrot

Movant(s):

R44 LENDING GROUP, LLC a

Represented By
Jeffrey S Shinbrot
Jeffrey S Shinbrot

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, August 3, 2021

Hearing Room 1545

1:00 PM

2:18-15559 R44 LENDING GROUP, LLC a Delaware Limited Liabilit

Chapter 11

#13.00 Cont'd Status Conference re: Post Confirmation
fr. 6/12/18, 6/26/18, 08/07/18, 10/9/18, 11/6/18,
12/11/18, 03/12/19, 3/26/19, 5/14/19, 6/11/19,
7/2/19, 7/30/19, 9/17/19, 11/12/19, 12/17/19,
3/10/20, 6/16/20, 8/18/20, 9/29/20, 11/10/20,
12/8/20, 2/16/21, 3/5/21, 6/15/21, 7/2021

Docket 5

Tentative Ruling:

Tentative Ruling for 8/3/21:
Appearances required.

(1) Current issues

(a) Debtor's Motion for Order Determining Amount of Occupant Payments Pursuant to Debtor's Confirmed Chapter 11 Plan ("Motion for Order Determining Amount of Occupant Payments") (dkt. 257); Objection and Opposition of Christina Vegas, Tina Delgadillo, Josefa Olmos, Jordon Roberts, Urbano Martinez, Jose Sanchez, Maria Chavez, Zolia Figueroa, Rosalina Dahlig, Dolores Andrews, Israel Chagollan, and Juanita Alano (the "Park Granada Tenants") (dkt. 259); Evidentiary Objections of the Park Granada Tenants (dkt. 260); Debtor's Reply (dkt. 265)

There is no tentative ruling. This Court anticipates hearing oral argument and addressing various issues with the parties.

(2) Deadlines/dates

This case was filed on 5/15/18, and Debtor's plan was confirmed on 3/15/21 (dkt. 230). The tentative ruling is to set a continued post-confirmation status conference for 8/31/21 at 1:00 p.m. (no written status report required).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately

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CONT... R44 LENDING GROUP, LLC a Delaware Limited Liabilit Chapter 11

resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone.** You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

R44 LENDING GROUP, LLC a

Represented By
Jeffrey S Shinbrot

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1:00 PM

2:21-12517 Law Offices of Brian D. Witzer

Chapter 11

#14.00 Cont'd hrg re: Application to Employ Bendon & Serlin, A Limited Liability Partnership as Special Counsel Statement of Disinterestedness
fr. 6/29/21

Docket 98

***** VACATED *** REASON: At the 7/6/21 hearing, this Court issued an oral ruling which stayed all proceedings pending mediation.**

Tentative Ruling:

Party Information

Debtor(s):

Law Offices of Brian D. Witzer

Represented By
Michael Jay Berger

Movant(s):

Law Offices of Brian D. Witzer

Represented By
Michael Jay Berger

**United States Bankruptcy Court
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Judge Neil Bason, Presiding
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Hearing Room 1545

1:00 PM

2:21-12517 Law Offices of Brian D. Witzer

Chapter 11

#15.00 Cont'd hrg re: Motion for relief from stay [NA]
fr. 6/15/21, 6/29/21

LAW OFFICES OF BRIAN D. WITZER
VS
DEBTOR

Docket 100

***** VACATED *** REASON: At the 7/6/21 hearing, this Court issued an oral ruling which stayed all proceedings pending mediation.**

Tentative Ruling:

Party Information

Debtor(s):

Law Offices of Brian D. Witzer

Represented By
Michael Jay Berger

Movant(s):

Law Offices of Brian D. Witzer

Represented By
Michael Jay Berger

**United States Bankruptcy Court
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2:21-12517 Law Offices of Brian D. Witzer

Chapter 11

#16.00 Cont'd Status Conference re: Chapter 11 Case
fr. 3/31/21, 4/27/21, 5/11/21, 6/15/21, 6/29/21,
7/6/21, 07/20/21, 7/22/21

Docket 1

***** VACATED *** REASON: At the 7/6/21 hearing, this Court issued an
oral ruling which stayed all proceedings pending mediation.**

Tentative Ruling:

Party Information

Debtor(s):

Law Offices of Brian D. Witzer

Represented By
Michael Jay Berger

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Central District of California
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Hearing Room 1545

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2:20-14672 Truemetrics

Chapter 11

#17.00 Cont'd hrg re: U.S. Trustee's Motion to Dismiss or Convert Case
fr. 10/27/20, 11/10/20, 12/22/20, 2/9/21, 3/23/21, 6/1/21

Docket 57

Tentative Ruling:

Tentative Ruling for 8/3/21:

Please see the tentative ruling for the status conference (Calendar No. 19,
8/3/21 at 1:00 p.m.).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Truemetrics

Represented By
Ryan A. Stubbe

Movant(s):

United States Trustee (LA)

Represented By
Dare Law

Trustee(s):

Gregory Kent Jones (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Hearing Room 1545

1:00 PM

2:20-14672 Truemetrics

Chapter 11

#18.00 Combined Hrg re: (A) Final Approval of Disclosure Statement and (B) Confirmation of Chapter 11 Plan fr. 11/10/20, 12/22/20, 2/9/21, 3/23/21, 6/1/21

Docket 54

Tentative Ruling:

Tentative Ruling for 8/3/21:

Please see the tentative ruling for the status conference (Calendar No. 19, 8/3/21 at 1:00 p.m.).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Truemetrics

Represented By
Ryan A. Stubbe

Trustee(s):

Gregory Kent Jones (TR)

Pro Se

**United States Bankruptcy Court
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1:00 PM

2:20-14672 Truemetrics

Chapter 11

#19.00 Cont'd Status Conference re: Chapter 11 Case
fr. 6/2/20, 6/30/20, 8/4/20, 8/18/20, 9/15/20,
10/27/20, 11/10/20, 12/22/20, 2/9/21, 3/23/21,
6/1/21

Docket 1

Tentative Ruling:

Tentative Ruling for 8/3/21:

Appearances required.

(1) Current issues

(a) Amended Plan (dkt. 109), Amended Disclosure Statement (dkt. 110), Order setting confirmation hearing (dkt. 112) and notice of hearing (dkt. 116), conditional non-opposition of First (dkt. 120), Proof of service of voting package (dkt. 121), Ballot summary (dkt. 122)

As a preliminary matter, even though there is no opposition on file, this Bankruptcy Court has an independent obligation to review the Plan and Disclosure Statement for compliance with 11 U.S.C. 1129 and 1191. Based on that review, the tentative ruling is to approve the Amended Disclosure Statement on a final basis and confirm the Amended Plan, subject to the conditional non-opposition of First Home Bank (dkt. 120).

The starting point is Debtor's ballot summary (dkt. 122). Debtor states that three impaired classes voted to accept the plan (Classes 2A, 2B, and 4A) and one class did not vote (Class 2C), so it is deemed to have rejected the plan. *In re M. Long Arabians*, 103 B.R. 211 (9th Cir. BAP 1989). This Court notes that Debtor's Amended Plan also designates two additional secured classes not referenced in the ballot summary (Classes 2D and 2E) (*compare* dkt. 109, at pdf p.9 and dkt. 122, pp. 1-2) This Court presumes that creditors in those classes did not vote and are deemed to have rejected the plan.

(i) Nonconsensual "cramdown" requirements

The requirements for confirmation of a Subchapter V plan are set forth in 11 U.S.C. 1191, which incorporates with modifications 11 U.S.C. 1129(a)-(b). The tentative ruling is that all requirements of 11 U.S.C. 1129(a) have been satisfied in this case except 11 U.S.C. 1129(a)(8) with respect to

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CONT...

Truemetrics

Chapter 11

Classes 2C, 2D, and 2E. A non-consensual plan may nevertheless be confirmed if "the plan does not discriminate unfairly, and is fair and equitable, with respect to each class of claims or interests that is impaired under, and has not accepted, the plan." 11 U.S.C. 1191(b).

(A) The plan does not "unfairly discriminate"

A plan unfairly discriminates unfairly if similar claims are treated differently without a reasonable basis for the disparate treatment. *See, e.g., In re Acequia, Inc.*, 787 F.2d 1352, 1364 (9th Cir. 1986) ("The Collier treatise states that this provision requires that a plan "allocate[] value to the class in a manner consistent with the treatment afforded to other classes with similar legal claims against the debtor") (citation omitted).

The plan does not treat similar claims differently or otherwise discriminate among similarly situated creditors without a reasonable basis for the disparate treatment. Accordingly, the tentative ruling is that the plan does not unfairly discriminate with respect to Classes 2C, 2D and 2E.

(B) The plan is "fair and equitable"

A plan is "fair and equitable" with regard to secured claims if it complies with the standards for secured claims stated in 11 U.S.C. 1129(b)(2)

(A). 11 U.S.C. 1191(c)(1). Section 1129(b)(2)(A) provides:

For the purpose of this subsection, the condition that a plan be fair and equitable with respect to a class includes the following requirements:

(A) With respect to a class of secured claims, the plan provides—

(i)

(I) that the holders of such claims retain the liens securing such claims, whether the property subject to such liens is retained by the debtor or transferred to another entity, to the extent of the allowed amount of such claims; and

(II) that each holder of a claim of such class receive on account of such claim deferred cash payments totaling at least the allowed amount of such claim, of a value, as of the effective date of the plan, of at least the value of such holder's interest in the estate's interest in such property;

(ii) for the sale, subject to section 363(k) of this title [11 USCS § 363(k)], of any property that is subject to the liens securing such claims, free and clear of such liens, with such liens to attach to the proceeds of such sale, and the treatment of such liens on proceeds

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CONT...

Truemetrics

Chapter 11

under clause (i) or (iii) of this subparagraph;
or

(iii) for the realization by such holders of the indubitable
equivalent of such claims. [11 U.S.C. 1129(a)(2)(A)(i)-(iii)]

Class 2C is a secured class with an allowed secured claim of \$0.01.
Under the plan, the holder of the claim in this single-member class will receive
payment in full on the Effective Date. Accordingly, the tentative ruling is that
treatment of Class 2C is fair and equitable.

Class 2D is a secured class with an allowed secured claim of \$0.01.
Under the plan, the holder of the claim in this single-member class will receive
payment in full on the Effective Date. Accordingly, the tentative ruling is that
treatment of Class 2D is fair and equitable.

Class 2E is a secured class with an allowed secured claim of \$0.01.
Under the plan, the holder of the claim in this single-member class will receive
payment in full on the Effective Date. Accordingly, the tentative ruling is that
treatment of Class 2E is fair and equitable.

(ii) Conclusion

For the foregoing reasons, the tentative ruling is that Debtor's
proposed Amended Plan satisfies the requirements of 11 U.S.C. 1129 and
1191.

Proposed orders: Debtor is directed to lodge two proposed orders via
LOU within 7 days after the hearing date: (i) an order approving the
Amended Disclosure Statement on a final basis, and (ii) an order
confirming the Amended Plan and setting a post-confirmation status
conference on the date set forth below, and attach a copy of this
tentative ruling, thereby incorporating it as this Court's final ruling,
subject to any changes ordered at the hearing. In addition, the
confirmation order should include the language requested by First
Home Bank and the language required by the local rules regarding
post-confirmation status reports and the effect of any future
conversion. See LBR 3020-1(b), 9021-1(b)(1)(B).

(b) United States Trustee's motion to dismiss, convert or appoint a
chapter 11 trustee (dkt. 58, "MTD"), Debtor's opposition (dkt. 70), UST's reply
(dkt. 71), continuing compliance order (dkt. 76)

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Truemetrics

Chapter 11

If this Court is persuaded to confirm Debtor's amended plan, the tentative ruling is to deny the MTD.

Proposed order: Debtor is directed to lodge a proposed order on the MTD via LOU within 7 days after the hearing date. See LBR 9021-1(b) (1)(B).

(2) Deadlines/dates. This case was filed on 5/21/20.

(a) Bar date: 7/30/20 per General Order 20-01 (70 days after petition date in Subchapter V cases) (DO NOT SERVE any notice: one has already been sent, see dkt. 12).

(b) Procedures order: dkt.7 (served one day late, dkt. 14)

(c) PlanDisclosure Statement*: See above.

(d) Post-Confirmation status conference: 12/14/21 at 1:00 p.m. Post-confirmation status report due 11/30/21

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone**. You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

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CONT... Truemetrics

Chapter 11

Debtor(s):

Truemetrics

Represented By
Ryan A. Stubbe

Trustee(s):

Gregory Kent Jones (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Hearing Room 1545

1:00 PM

2:19-24048 110 West Properties, LLC

Chapter 11

Adv#: 2:20-01012 Tarzana Crossing, a Merchant Faire, LLC v. 110 West Properties, LLC et al

#20.00 Cont'd Status Conference re: Notice of Removal
fr. 03/31/20, 5/12/20, 6/30/20, 8/18/20, 10/27/20
12/8/20, 1/26/21, 2/9/21, 03/02/21, 4/6/21, 4/27/21,
5/11/21, 6/1/21

Docket 1

***** VACATED *** REASON: Continued to 9/28/21 at 1:00 p.m. pursuant
to the parties' stipulation (adv. dkt. 57) and order thereon.**

Tentative Ruling:

Party Information

Debtor(s):

110 West Properties, LLC

Represented By
Gregory K Jones
Jeffrey Huron
Danielle N Rushing

Defendant(s):

110 West Properties, LLC

Represented By
Gregory K Jones
Jeffrey Huron

RU, LLC

Pro Se

Dos Cabezas Properties, LLC

Represented By
Thomas F Nowland
Robert P Goe
Charity J Manee

Criscione-Meyer Entitlement, LLC

Represented By
Thomas F Nowland

Michael Criscione

Represented By
Thomas F Nowland

**United States Bankruptcy Court
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CONT... 110 West Properties, LLC

Chapter 11

First American Title Company

Pro Se

Plaintiff(s):

Tarzana Crossing, a Merchant Faire,

Represented By

Alan M Feld

Peter C. Bronson

Peter C Bronson

**United States Bankruptcy Court
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Hearing Room 1545

1:00 PM

2:19-23664 Liat Talasazan

Chapter 7

#21.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 3/2/21, 5/11/21, 6/29/21, 7/20/21

MICHAEL TREMBLAY, trustee
vs
DEBTOR

Docket 504

Tentative Ruling:

Tentative Ruling for 8/3/21:

Please see the tentative ruling for the status conference (Calendar No. 24, 8/3/21 at 1:00 p.m.).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Liat Talasazan

Represented By
Giovanni Orantes
Luis A Solorzano

Movant(s):

Michael Tremblay, Trustee

Represented By
David I Brownstein

Trustee(s):

Caroline Renee Djang (TR)

Represented By
David Wood

**United States Bankruptcy Court
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2:19-23664 Liat Talasazan

Chapter 7

#22.00 Cont'd hrg re: Motion for Turnover of Property of the Estate
Pursuant to 11 U.S.C. § 542 35th Street Properties
fr 3/23/21, 4/6/21, 4/27/21, 5/11/21, 6/29/21, 7/20/21

Docket 543

Tentative Ruling:

Tentative Ruling for 8/3/21:

Please see the tentative ruling for the status conference (Calendar No. 24,
8/3/21 at 1:00 p.m.).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Liat Talasazan

Represented By
Giovanni Orantes
Luis A Solorzano

Trustee(s):

Caroline Renee Djang (TR)

Represented By
David Wood

**United States Bankruptcy Court
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1:00 PM

2:19-23664 Liat Talasazan

Chapter 7

#23.00 Cont'd hrg re: Trustee's Motion for Order Authorizing Sale of Real Property [636 N. Laurel Avenue, Los Angeles, CA 90048]: (A) Outside the Ordinary Course of Business; (B) Free and Clear of Liens; (C) Subject to Overbids and (D) For Determination of Good Faith Purchasers Under Section 363(m) fr. 5/11/21, 5/20/21, 6/29/21, 7/20/21

Docket 588

Tentative Ruling:

Tentative Ruling for 8/3/21:

Please see the tentative ruling for the status conference (Calendar No. 24, 8/3/21 at 1:00 p.m.).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Liat Talasazan

Represented By
Giovanni Orantes
Luis A Solorzano

Trustee(s):

Caroline Renee Djang (TR)

Represented By
David Wood

**United States Bankruptcy Court
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Hearing Room 1545

1:00 PM

2:19-23664 Liat Talasazan

Chapter 7

#24.00 Cont'd Status Conference re: Chapter 7 Case
fr. 1/28/20, 2/18/20, 3/3/20, 3/10/20, 03/31/20,
4/7/20, 5/12/20, 5/19/20, 6/2/20, 6/16/20, 7/28/20,
8/18/20, 9/1/20, 9/15/20, 9/29/20, 10/27/20, 12/1/20,
12/22/20, 2/9/21, 03/02/21, 3/23/21, 4/6/21, 5/11/21,
6/29/21, 7/20/21

Docket 49

Tentative Ruling:

Tentative Ruling for 8/3/21:
Appearances required.

(1) Current issues

(a) Chapter 7 Trustee's Motion to sell Laurel Property (dkt. 588, 589, 590), Celtic Bank's response (dkt. 594), Oxygen Funding's response (dkt. 595), East West Bank's response (dkt. 598), Tremblay subordination stipulation and order (dkt. 599, 600), Stipulation and order approving debtor's waiver of homestead exemption (dkt. 603, 605), Trustee's omnibus reply (dkt. 606), supplemental papers (dkt. 611-613), and stipulation with Celtic Bank (dkt. 617), supplemental buyer declarations (dkt. 651, 652), Tremblay status report (dkt. 655)

See below.

(b) Subchapter V Trustee's Motion for turnover of 35th Street Properties, accounting re Jefferson property, etc. (dkt. 543, 544), Debtor's response (dkt. 562), Oxygen's joinder (dkt. 568), Subchapter V Trustee's reply (dkt. 569, 570), Order granting motion (dkt. 578)

See below.

(c) Tremblay's motion for relief from stay (dkt. 504), Order denying in substantial part and granting limited relief (dkt. 559), Tremblay's status reports (dkt. 583, 655)

See below.

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CONT...

Liat Talasazan

Chapter 7

(d) All pending matters

This Court will address with the parties the current status and future proceedings. The Trustee should be prepared to provide an update on the status of the Laurel Property escrow.

(2) Deadlines/dates. This case was filed on 11/20/19, converted from chapter 13 to chapter 11 on 1/2/20, designated by Debtor as a Subchapter V case on 3/2/20 (dkt.128), and converted to chapter 7 on 12/1/20 (dkt. 412).

(a) Continued status conference: 8/31/21 at 2:00 p.m. No written status report required.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone**. You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED (see Memorialization of Tentative Rulings, dkt.208 (filed 5/19/20) and dkt.303 (filed 9/21/20). See also Order Denying Motion for Stay (dkt.441, as amended by dkt.442).]

Party Information

Debtor(s):

Liat Talasazan

Represented By
Giovanni Orantes
Luis A Solorzano

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, August 3, 2021

Hearing Room 1545

1:00 PM

CONT... Liat Talasazan

Chapter 7

Trustee(s):

Caroline Renee Djang (TR)

Pro Se

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Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, August 3, 2021

Hearing Room 1545

2:00 PM

2:21-12324 Christopher Jamaal Lovejoy

Chapter 7

#1.00 Cont'd hrg re: Motion to Dismiss Chapter 7
Case Pursuant to 11 U.S.C. Section 707(a)
fr. 6/1/21

Docket 10

Tentative Ruling:

Tentative Ruling for 8/3/21:

Appearances required.

Grant as set forth below.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Key documents reviewed (in addition to motion papers): Debtor's opposition (dkt. 16), Reply papers (dkt. 17, 18, 19) of Don King Productions, Inc.'s ("Don King") and objection to Debtor's declaration (dkt. 20), Notice of continued hearing (dkt. 22, 23), Order assigning matter to mediation (dkt. 27), Scheduling order (dkt. 28), Supplemental papers of Don King (dkt. 40, 41, 42, "Supplemental Papers")

Reasons: The tentative ruling is to dismiss this case for the reasons stated in the Motion to Dismiss (dkt. 10, 11, 12, 13) and Supplemental Papers.

The tentative ruling is also to direct Debtor to appear to address why this Court should not dismiss this case with a 180 day bar against being a debtor in bankruptcy due to "willful failure of the debtor to abide by orders of the court, or to appear before the court in proper prosecution of the case" (11 U.S.C. 109(g)(1)) in view of Debtor's failure to file supplemental papers by the briefing deadlines set by this Court (see dkt. 28).

If appearances are not required at the start of this tentative ruling but you

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CONT... Christopher Jamaal Lovejoy

Chapter 7

wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone.** You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULING OMITTED]

Party Information

Debtor(s):

Christopher Jamaal Lovejoy

Represented By
Varand Gourjian

Trustee(s):

Timothy Yoo (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 1545

2:00 PM

2:21-11352 Stern Holdings, Inc.

Chapter 11

#2.00 Cont'd Status Conference re: Chapter 11 Case
fr. 3/23/21, 4/27/21, 6/1/21, 6/29/21

Docket 1

Tentative Ruling:

Tentative Ruling for 8/3/21:

Appearances required.

(1) Current issues

(a) Dismiss this case with a bar, and issue orders to show cause why Debtor's principal and its proposed counsel should not be sanctioned ("OSCs")

The tentative ruling, is to dismiss this case with a 180 day bar against being a debtor in bankruptcy due to "willful failure of the debtor to abide by orders of the court, or to appear before the court in proper prosecution of the case." 11 U.S.C. 109(g)(1). In addition, the tentative ruling is to issue OSCs directing Debtor's principal (Mr. Melamed) and Debtor's proposed counsel (meaning both the Abbasi Law Corporation and Matthew Abbasi individually) to appear and show cause why they should not be subject to sanctions, (x) for the reasons set forth in this Court's 6/1/21 and 6/29/21 tentative rulings (copied below) in the amount of **\$200 each**, for Mr. Melamed and proposed counsel, and also (y) for the following additional reasons, in the amount of **\$50 against Mr. Melamed** for the MOR/UST fee issue described below, and **\$2,000 against Debtor's proposed counsel** for apparently false, belated statements regarding conflicts of interest and other disqualifications to represent this Debtor.

(i) Continued failure to comply with reporting requirements

Despite this Court's admonitions in the 6/1/21 and 6/29/21 tentative rulings about filing late Monthly Operating Reports ("MORs"), Debtor has not filed its June MOR (which was due 7/15/21) as of the preparation of this tentative ruling.

In addition, the declaration of Shahin Melamed (dkt. 52), details the Debtor's ownership interest in two real properties: a commercial property located at 7227 Oleander Avenue, Fontana, CA 92336 (the "Fontana

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Chapter 11

Property") and a residential property located at 1641 Viewmont Dr., Los Angeles, CA 90069 (the "Viewmont Property") (*id.*, pp.2-3), but Debtor's May MOR (dkt. 50) does not disclose any insurance coverage for either property. True, Mr. Melamed asserts that the Viewmont Property is "secure and insured" (dkt. 52, p.3:6-7), but that omission from Debtor's MORs further confirms that Debtor is not providing complete and accurate information in its MORs.

Finally, this Court notes that on 6/25/21 the Clerk's Office issued a notice to Debtor to re-file its May MOR (dkt. 51) using the correct docket event, but as of the preparation of this tentative ruling Debtor has not complied.

(ii) Failure to demonstrate meaningful progress

This Court has reviewed the papers filed on 6/28/21 (dkt. 52) which attach appraisals and related repair estimates for the Fontana and Viewmont Properties. *Id.*, Ex. A, B, C & D. But those papers only raise further concerns about the Debtor's apparent lack of any tangible progress after five and a half months in bankruptcy.

(A) The Fontana Property

Mr. Melamed asserts that the Fontana Property is a "partially built convalescence home," and anticipates that it will take an estimated \$6,925,349.36 in funds to complete the project. *Id.*, p.2:16, 25-26. Mr. Melamed further asserts that "the entire sum is not going to be needed at once but [he is] committed to investing as much as [he] can into this property ... [and] can obtain a construction loan as [the Debtor] make[s] progress." *Id.* pp.2:26-3:1.

But it is unclear how Debtor intends to fund such a large project given that it is not operating or generating any income (dkt. 15, p.2, para. "(B)(1)" & p.3 "(B)(2)" and dkt. 50, p.1) and there is no evidence in the record of Debtor efforts to obtain DIP financing or of Mr. Melamed's or Mr. Ali Nowaid's (Debtor's other member) financial ability to fund even a portion of the project until it can obtain the necessary funding. To make matters worse, Debtor previously stated that an existing dispute between its secured creditors "has to be resolved at the earliest to allow the Debtor to seek new investors and/or new financing to fund its plans" (dkt. 15, pdf p.13:19-20). But there remains nothing in the record suggesting this dispute has been resolved so it is unclear whether Debtor even could pursue DIP financing at this time.

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Nor is there any discussion about how long construction is anticipated to take, whether Debtor intends to sell the Fontana Property once construction is completed and, if so, how much the Debtor estimates it could be sold for, and how Debtor intends to service existing secured debts (including the accrual of default interest) in the meantime. Alternatively, if Debtor intends to operate the convalescence home (albeit unlikely), there is no discussion about Debtor's qualifications to operate this type of business or financial projections for servicing the existing secured debt as well as the debt necessary to bring the project to completion.

Debtor's initial status report (dkt. 15) disclosed that the City of Fontana was in the process of reviewing the property's existing conditions, the validity of Debtor's permits and might issue citations against the Debtor (*id.*, pdf p.13:12-13). As a result, Debtor was considering demolishing existing structures and submitting a new plan an permit package (*id.*, pdf p., 13:13-15). But in Debtor's latest papers (dkt. 52) Debtor fails to address the status of those investigations and what impact that has or might have on Debtor's ability to proceed with its existing plans.

(B) The Viewmont Property

Mr. Melamed states that this property "requires a great deal of repair and is currently not occupied due to its condition" (dkt. 52, p.3:5-6) and repair costs have been estimated to be \$1,709,126.80 (*id.*, p.3:11-12). But it is unclear what Debtor's intentions are with respect to this property and what risks exist for the estate or the public in allowing this property to sit vacant indefinitely.

(iii) Employment of bankruptcy counsel

At the conclusion of the hearing on 6/29/21 this Court set a deadline of 7/16/21 for Debtor's (proposed) bankruptcy counsel to file supplemental papers addressing the issues addressed in the 6/29/21 tentative ruling (copied below). As of the preparation of this tentative ruling, no response is on file.

(v) Conclusion

Debtor has obtained the benefits of the automatic stay (11 U.S.C. 362(a)) and the other advantages of bankruptcy (*e.g.*, negotiating leverage, and opportunities for restructuring) without bearing the burdens. In addition, Debtor's proposed counsel appears to have made false statements regarding

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its purported lack of conflicts and its qualifications to represent Debtor in this case.

For the foregoing reasons, the tentative ruling is to dismiss this case with a 180-day bar against being a debtor in bankruptcy, and expressly retain jurisdiction regarding possible sanctions. The tentative ruling is to issue OSCs against Debtor's principal and its proposed counsel, and set those OSCs for hearing at the same time as the continued status conference (see part "(2)" of this tentative ruling, below).

Proposed order: The UST is requested to lodge a proposed order of dismissal via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

After entry of that order on the docket, this Court will prepare the above-referenced OSCs.

(2) Dates/procedures. This case was filed on 2/19/21.

(a) Amended Bar date: 6/30/21 (dkt. 30) (served 1 day late, dkt. 35, 36)

(b) Procedures order: dkt.3 (timely served, dkt.5)

(c) Plan/Disclosure Statement: See Section (1)(a), above.

(d) Continued status conference: 9/28/21 at 2:00 p.m.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone.** You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless

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otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 6/29/21:

Appearances required.

(1) Current issues

(a) Dismiss this case with a bar, and issue orders to show cause why Debtor's principal and its proposed counsel should not be sanctioned ("OSCs")

The tentative ruling, is to dismiss this case with a 180 day bar against being a debtor in bankruptcy due to "willful failure of the debtor to abide by orders of the court, or to appear before the court in proper prosecution of the case." 11 U.S.C. 109(g)(1). In addition, the tentative ruling is to issue OSCs directing Debtor's principal (Mr. Melamed) and Debtor's proposed counsel (meaning both the Abbasi Law Corporation and Matthew Abbasi individually) to appear and show cause why they should not be subject to sanctions, (x) for the reasons set forth in this Court's 6/1/21 tentative ruling (copied below) in the amount of **\$200 each**, for Mr. Melamed and proposed counsel, and also (y) for the following additional reasons, in the amount of **\$50 against Mr. Melamed** for the MOR/UST fee issue described below, and **\$2,000 against Debtor's proposed counsel** for apparently false, belated statements regarding conflicts of interest and other disqualifications to represent this Debtor.

(i) Continued failure to comply with reporting requirements

Despite this Court's admonitions in the 6/1/21 tentative ruling about filing late Monthly Operating Reports ("MORs"), Debtor's May MOR (which was due 6/15/21) was not filed until 6/24/21. In addition, that MOR is mostly blank, including the part reflecting payment of quarterly fees to the Office of the United States Trustee ("UST"), which means Debtor either is not making the required payments (without explaining why in the MOR), or Debtor is not accurately reporting payments. See MOR (dkt.50) p.6. What else is missing or inaccurate in Debtor's MORs?

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(ii) Failure to obtain valuation of property, or other apparent progress

This Court was persuaded not to dismiss this case on 6/1/21 based on proposed counsel's representation the Debtor would be filing papers demonstrating the steps it has taken to move this case forward. But as of the preparation of this tentative ruling the docket does not reflect any apparent progress.

True, Debtor's (late) MOR asserts that Debtor has "achieved [a] tentative deal with Creditor, Prime Point which needs to be approved by the court. Additionally, the Debtor has made substantial progress on its plan for its properties." Dkt.50, p.8, Questionnaire item 3. Those vague phrases are essentially meaningless.

There is no indication that, after more than four months in bankruptcy, Debtor has made any tangible progress. To the contrary, as set forth below, the apparent conflicts and other problems involving Debtor's proposed counsel probably mean that any tentative deal with Prime Point cannot be approved.

(iii) Employment of bankruptcy counsel

Debtor filed this case on 2/19/21, but has only belatedly filed an employment application a month later, and very belatedly lodged a proposed order approving that application four months later. See dkt. 20-22, 48, 49. For the following reasons, this Court has concerns about the proposed employment. Some of those concerns might be easily addressed; but they get progressively worse, and they culminate in apparent conflicts of interest and related concerns that appear to disqualify counsel entirely.

A. Missing retainer agreement. Proposed counsel refers to a retainer agreement (dkt. 20, pp.4:19, 5:9), but the retainer agreement is not attached. That is troubling because retainer agreements sometimes include matters such as purported waivers of conflicts of interest that are impermissible (in fact, as set forth below, the application papers do include a purported waiver of conflicts of interest).

B. Third party funder. Proposed counsel discloses that it received a pre-petition retainer from Shahin Melamed, who holds a

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50% membership interest in the Debtor (dkt. 20, pdf p.18:5-7) and that Mr. Melamed and/or his other businesses have agreed to pay all of proposed counsel's post-petition fees and costs (*id.*, pdf p.18:14-16) and that all funds provided by Mr. Melamed or his affiliates are intended to be contributions and not loans (*id.*, pdf p.18:11-20). This raises certain ethical issues because a third party funder who funds a retainer and ongoing attorneys' fees and costs for a debtor (a "Funder") may have a variety of motivations for providing the funding, including not just a desire to protect prior equity investments or loans to Debtor, but also, for example, being the recipient of an avoidable preference, or having alter ego liability, or otherwise having interests that are adverse to (or at least not fully aligned with) the bankruptcy estate or creditors. For these reasons, although payment of a retainer by a Funder is not outright prohibited, it is fraught with ethical concerns. *If* this Court is persuaded not to dismiss this case, proposed counsel should be prepared to address the following issues (for purposes of the following discussion, the "Funder" includes not just Mr. Melamed but all of his affiliates who may contribute funds):

(1) Connections. What are *all* of the connections between the Funder, on the one hand, and Debtor, Debtor's proposed counsel, and any of the other types of persons listed in FRBP 2014, on the other hand – e.g., have there been any economic or business or personal connections between the Funder and Debtor *beyond* the fact of being direct or indirect equity owners, or between the Funder and proposed counsel, or any creditor or other party in interest, or their respective attorneys or accountants? These questions may be answered, if appropriate, by referring to *specific* disclosures already on file, e.g., in the bankruptcy schedules.

(2) Informed consent of Funder. Has the Funder been advised regarding actual and potential conflicts of interest, and that the sole attorney-client relationship and duty of loyalty is with Debtor, not the Funder? Who provided such advice: independent counsel, or Debtor's proposed counsel (and, if the latter, was the Funder given the opportunity to obtain independent counsel)? Has the Funder given informed consent? Are those things in writing? If any Funder has other equity owners, have they given their informed

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consent in writing?

(3) Informed consent of debtor. Has the debtor likewise been fully advised and given informed consent? Who provided such advice? Are these things in writing?

(4) Other consideration. Has proposed counsel demonstrated or represented to the Court the absence of an actual or potential conflict, a lack of disinterestedness, or any other basis for disqualification? See *In re Kelton Motors, Inc.*, 109 B.R. 641 (Bankr. D. Vt. 1989); *In re Hathaway Ranch Partnership*, 116 B.R. 208, 219 (Bankr. C.D. Cal. 1990); *In re Park-Helena Corp.*, 63 F.3d 877 (9th Cir. 1995).

C. Purported waiver of conflicts. Proposed counsel states that, to the extent any potential or actual conflicts of interest exist or arise between the Debtor, Mr. Melamed and/or Mr. Ali Nowaid (who holds the other 50% membership interest in the Debtor) as a result of the Mr. Melamed's payment of proposed counsel's pre-petition retainer and post-petition fees and costs or, presumably for any other reason (see below re apparent conflicts), the parties have agreed to waive all conflicts of interest (dkt. 20, p.5:3-8 & pdf p.14, para. "(5)"). But proposed counsel has not cited any authority in support of those assertions, and in general a debtor in possession cannot waive conflicts on behalf of the bankruptcy estate/creditors. *If* this Court is persuaded not to dismiss this case, the tentative ruling is to disapprove of any provision in proposed counsel's retainer agreement in which Debtor purports to waive any conflict of interest on behalf of the estate. See *In re Triple Star Welding, Inc.*, 324 B.R. 778, 791 (9th Cir. BAP 2005) (informed consent to waive conflicts cannot be obtained because "the real parties in interest" are "the creditors, and that is not a waivable conflict") (citation and internal quotation marks omitted).

D. Conflicts of Interest. Mr. Melamed's declaration states that Debtor sought bankruptcy protection to prevent the loss of its real property located at 7227 Oleander Avenue, Fontana, CA 92336 (the "Property") in a foreclosure sale (dkt. 20, pdf p.8:11-14)

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and that there is currently a dispute between Debtor's two secured creditors (All Star Financial ("All Star") and Prime Point Contracting, Inc. ("**Prime Point**")) over which of the two entities holds the first-priority lien against Debtor's real property (*id.*, pdf p.8:18-25). Mr. Melamed further states that that resolution of the dispute between All Star and **Prime Point** is very important to Debtor's plan and that Debtor intends to seek a determination of lien priority in an action pending in State Court that **Prime Point** initiated to foreclose on its judgment lien (*id.*, pdf p., 9:1-6). In other words, disputes with **Prime Point** are central to this bankruptcy case.

Proposed counsel states that it does not have any conflicts of interest (*id.*, pdf p.14, para. "(5)") that would prevent it from representing Debtor. But proposed counsel discloses that **it represents Prime Point** in an unrelated employment law matter (*id.* pdf p.15, para. "(6)"). In addition, **proposed counsel discloses that for many years it has represented the co-defendants in that employment law matter: Prime Point's owner, Anthony Nowald, and to a lesser extent his son, Ali Nowald, who is also the 50% co-owner of Debtor.** *Id.*, pdf pp.15-18. In other words, proposed counsel appears to have **direct conflicts of interest** because it has duties of loyalty to Prime Point, its owner, and his son, all of whom are on opposite sides of disputes with (x) Debtor (foreclosure etc.), (y) All Star (lien priority etc.), and (z) all other creditors and equity holders in this bankruptcy case (because proposed counsel has a duty to investigate whether, for example, there might be grounds to avoid any lien asserted by Prime Point, or otherwise object to its claim). See generally, e.g., *Triple Star Welding*, 324 B.R. 778, 791-797 & nn.12, 14 & 20 (burden is on debtor and professionals to establish disinterestedness and lack of adverse interests, both for employment and for compensation); *In re Sonya D. Intern., Inc.*, 484 B.R. 773, 781 (Bankr. C.D. Cal. 2012) (citing authority that general bankruptcy counsel must review claims "to determine which should be disputed" and to investigate "pre-bankruptcy transactions" and, if such counsel represented creditors then "[a]ny number of possible conflicts can be envisioned," although representation of a creditor is not a *per se* disqualification from employment) (citation and internal

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quotation marks omitted).

In addition, this Court is concerned that these disclosures were not stated prominently in the employment application itself, together with an explanation of how proposed counsel concluded that it is qualified for employment. Instead, the application contains only an oblique reference to the disclosures and a bald assertion (apparently false) that proposed counsel does not represent anyone who has an interest "materially adverse" to Debtor (which, incidentally, is not the complete test under 11 U.S.C. 101(14) and 327(a)):

ALC does not represent [anyone] which has an interest materially adverse to the Debtor in connection with this bankruptcy case or otherwise. ALC has disclosed all of its current and past representations of the Debtor, its owners, and one of its creditors in the present and past matters in the aforementioned Statement which is being filed concurrently with the herein Application. [Dkt.48, p. 5:19-23 (emphasis added).]

The tentative ruling is that, whether or not this case is dismissed, this Court will issue an OSC directing proposed counsel to address the foregoing issues and explain the factual and legal grounds for concluding that its current and past representations of Prime Point, its owner Anthony Nowald, and his son and Debtor's co-owner Ali Nowald, do not create actual conflicts of interest and a lack of disinterestedness that disqualify it from representing the Debtor. The tentative ruling is that proposed counsel's explanation must address the precise words of 11 U.S.C. 327(a), which authorizes employment of professionals who "do not hold or represent an interest adverse to the estate, and that are disinterested persons" and 11 U.S.C. 101(14)(C), which defines "disinterested person" as a person who (among other things) "does not have an interest materially adverse to the interest of the estate or of any class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with, or interest in, the debtor, or for any other reason," and in addition proposed

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counsel must cite authority supporting its position that it "does not represent [anyone] which has an interest materially adverse to the Debtor" despite its representation of foreclosing creditor Prime Point and its insiders.

(v) Conclusion

Debtor has obtained the benefits of the automatic stay (11 U.S.C. 362(a)) and the other advantages of bankruptcy (e.g., negotiating leverage, and opportunities for restructuring) without bearing the burdens. In addition, Debtor's proposed counsel appears to have made false statements regarding its purported lack of conflicts and its qualifications to represent Debtor in this case.

For the foregoing reasons, the tentative ruling is to dismiss this case with a 180-day bar against being a debtor in bankruptcy, and expressly retain jurisdiction regarding possible sanctions. The tentative ruling is to issue OSCs against Debtor's principal and its proposed counsel, and set those OSCs for hearing at the same time as the continued status conference (see part "(2)" of this tentative ruling, below).

Proposed order: The UST is requested to lodge a proposed order of dismissal via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

After entry of that order on the docket, this Court will prepare the above-referenced OSCs.

(2) Dates/procedures. This case was filed on 2/19/21.

- (a) Amended Bar date: 6/30/21 (dkt. 30) (served 1 day late, dkt. 35, 36)
- (b) Procedures order: dkt.3 (timely served, dkt.5)
- (c) Plan/Disclosure Statement: See Section (1)(a), above.
- (d) Continued status conference: 8/17/21 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

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Tentative Ruling for 6/1/21:

Appearances required.

(1) Current issues

(a) Dismiss this case with a bar, and issue order to show cause ("OSC")

The tentative ruling, is to dismiss this case with a 180 day bar against being a debtor in bankruptcy due to "willful failure of the debtor to abide by orders of the court, or to appear before the court in proper prosecution of the case." 11 U.S.C. 109(g)(1). In addition, the tentative ruling is to issue an OSC directing Debtor's principal (Mr. Melamed) and Debtor's counsel to appear and show cause why they should not be subject to sanctions of \$200 each, for the following reasons.

(i) Failure to appear at the 4/27/21 status conference

This Court's tentative ruling posted in advance of the 4/27/21 status conference (copied below) directed Debtor to appear to address certain issues discussed therein, but Debtor failed to appear or otherwise notify Judge Bason's staff in advance of the hearing about any circumstances that might have prompted this Court to excuse Debtor's appearance.

(ii) Failure to comply with reporting requirements

Debtor has repeatedly been late in filing Monthly Operating Reports ("MORs"). See February MOR (dkt. 16, filed 8 days late) & March MOR (dkt. 32, filed 18 days late). As of the preparation of this tentative ruling, Debtor has not filed its April MOR (due 5/15/21), despite having entered into a

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stipulation to do so (resolving the motion of the United States Trustee ("UST") to dismiss this case, dkt. 40).

(iii) Failure to obtain valuation of property

Debtor's February MOR stated that valuation of its property is key to the success of its plan (dkt. 16, p. 8), but as of the preparation of this tentative ruling (over two months later) Debtor has not filed any motions to value its real properties. Additionally, Debtor's February and March MORs (dkt. 16 & 32) reflect that Debtor is not operating and Debtor continues to accrue administrative expenses without appearing to take any meaningful steps to reorganize its affairs.

(iv) Incorrect/untimely service of original and amended claims bar date orders

On 3/25/21 this Court issued an original bar date order (dkt. 18) which directed Debtor to serve a copy of the order by 3/30/21, but Debtor failed to serve that order at all. On 4/28/21 this Court issued an amended bar date order (dkt. 30) directing Debtor to "serve a copy of this Order (*not* the notice contemplated by LBR 3003-1)" on all parties in interest no later than 5/3/21 (dkt. 30, p.2, para. "(2)"). Notwithstanding those directions, Debtor appears to have served only the notice contemplated by LBR 3003-1 (see dkt. 35, 36) and even that service was 1 day later than the deadline this Court set.

(v) Conclusion

The foregoing lapses are not terribly serious, and there might (or might not) be good reasons for any one of those lapses (*e.g.*, illness or calendaring errors). But in combination those lapses place undue burdens on other parties in interest (and this Court), and deprive creditors and the UST of timely information that they need. Debtor has obtained the benefits of the automatic stay (11 U.S.C. 362(a)) and the other advantages of bankruptcy (*e.g.*, negotiating leverage, and opportunities for restructuring) without bearing the burdens. That is inappropriate and sanctionable.

The tentative ruling is to set the OSC for the same time as the continued status conference (see part "(2)" of this tentative ruling, below).

(2) Dates/procedures. This case was filed on 2/19/21.

(a) Amended Bar date: 6/30/21 (dkt. 30) (served 1 day late, dkt. 35, 36)

(b) Procedures order: dkt.3 (timely served, dkt.5)

(c) Plan/Disclosure Statement: See Section (1)(a), above.

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2:00 PM

CONT...

Stern Holdings, Inc.

Chapter 11

(d) Continued status conference: 7/6/21 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 4/27/21:

Appearances required.

(1) Current issues

(a) Service of bar date order

This Court's bar date order (dkt. 18) set a deadline of 3/30/21 for Debtor to serve all interested parties. As of the preparation of this tentative ruling, there is no proof of service reflecting that Debtor timely complied. Have creditors been served with the bar date order? If so, when did that occur and why has Debtor not filed a proof of service?

(b) Monthly Operating Reports ("MORs")

As of the preparation of this tentative ruling, Debtor has not filed its March MOR. Why not?

(2) Dates/procedures. This case was filed on 2/19/21.

(a) Bar date: 5/28/21 (dkt. 18, no proof of service on file)

(b) Procedures order: dkt.3 (timely served, dkt.5)

(c) Plan/Disclosure Statement: TBD

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Stern Holdings, Inc.

Chapter 11

(d) Continued status conference: 6/1/21 at 1:00 p.m. *Brief* status report due 5/18/21.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 3/23/21:

Appearances required by counsel for Debtor and by Debtor's principal.

(1) Current issues

(a) Untimely Status report

Debtor filed its status report (dkt. 15) four days late, on 3/13/21, without providing any explanation for the late filing. Debtor/counsel are cautioned that failure to timely comply with this Court's orders in future may result in adverse consequences.

(b) First-day motions

Debtor's status report states that a budget motion is not required by the presiding judge's procedures. Dkt. 15, p.3. That is wrong (see posted "Procedures of Judge Bason," available at www.cacb.uscourts.gov), but the tentative ruling is to excuse this requirement with a caution to counsel not to mis-state the applicable procedures.

If Debtor has not filed an employment application or any other typical so-called "first-day" motion(s) by the time of this hearing, the tentative ruling is to set a deadline of **3/30/21** for Debtor to file any outstanding motion(s) with a

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Chapter 11

hearing concurrent with the continued status conference. Debtor is directed to address at the hearing what other motions are required or appropriate.

(c) Monthly Operating Reports ("MORs")

As of the preparation of this tentative ruling, Debtor has not filed its February MOR. Why not?

(d) Only two creditors?

Debtor's creditor matrix includes only two creditors. Is that really true? How about the City of Fontana which, according to Debtor's Status Report (dkt.15), is considering citations for alleged "violations" of some sort? How about former employees, tax authorities, and other typical creditors?

(2) Dates/procedures. This case was filed on 2/19/21.

(a) Bar date: 5/28/21 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Procedures order: dkt.3 (timely served, dkt.5)

(c) Plan/Disclosure Statement: TBD

(d) Continued status conference: 4/27/21 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

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CONT... Stern Holdings, Inc.

Chapter 11

Debtor(s):

Stern Holdings, Inc.

Represented By
Matthew Abbasi

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2:20-18530 Socorro Evelina Garcia

Chapter 7

#3.00 Cont'd hrg re: Motion to Set Aside State Court Default Judgment for Violation of the Automatic Stay fr. 2/9/21, 4/6/21, 6/15/21

Docket 24

Tentative Ruling:

Tentative Ruling for 8/3/21:

Please see the tentative ruling for the adversary proceeding status conference (Calendar No. 4, 8/3/21 at 2:00 p.m.).

Party Information

Debtor(s):

Socorro Evelina Garcia

Represented By
Nathan A Berneman

Movant(s):

Socorro Evelina Garcia

Represented By
Nathan A Berneman

Trustee(s):

Elissa Miller (TR)

Pro Se

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2:20-18530 Socorro Evelina Garcia

Chapter 7

Adv#: 2:21-01006 Jarvis v. Garcia et al

#4.00 Cont'd status conference re: Removal
fr. 3/23/21, 6/15/21

Docket 1

Tentative Ruling:

Tentative Ruling for 8/3/21:

Appearances are not required.

(1) Current issues

(a) Motion to approve settlement (dkt. 47)

The tentative ruling is to approve the parties settlement agreement as follows.

(i) Notice and service are proper

This Court's 6/15/21 tentative ruling (copied below) directed Mr. Kummer to file and serve a motion to approve the parties' settlement agreement by 7/13/21. On 6/30/21, Mr. Kummer filed a "Declaration of Dixon G. Kummer re Mediation and Settlement and Request/Motion to Approve Settlement" (dkt. 47) (emphasis added).

The typical procedure for obtaining approval of a settlement requires parties to file a separately noticed motion under Rule 9019 (Fed. R. Bankr. P.) (see *In re A&C Properties*, 784 F.2d 1377, 1381 (9th Cir. 1986) for applicable standards) and serve the motion on all creditors at least 21 days prior to the hearing, "unless the court for cause shown directs that notice not be sent." Rule 2002(a)(3) (Fed. R. Bankr. P.).

The tentative ruling is that there is adequate "cause" not to require service on all creditors in this instance because the dollar amounts at issue are small and the Chapter 7 Trustee received NEF notice of the proposed settlement and has not filed any opposition to the settlement or request to administer the asset.

(ii) The settlement is reasonable, fair and equitable

The tentative ruling is also that the proposed settlement is reasonable, fair and equitable as follows.

As to the first A&C Factor (probable success), the tentative ruling is

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that this factor weighs in favor of approving the settlement because although the Debtor has succeeded in avoiding the entry of default judgment against her in the State Court action, the Debtor is proceeding *in pro per* and absent the settlement would need to litigate the issue of whether Mr. Jarvis's (and his parents) conduct violated the discharge injunction and defend herself against the claims asserted in the State Court complaint.

As to the second A&C Factor (difficulty of collection) the tentative ruling is that this factor is neutral. There is no evidence in the record to conclude that the Debtor would experience any difficulty in collecting against Mr. Jarvis at a later time.

As to the third A&C Factor (complexity of the litigation and circumstances attending it) the tentative ruling is that this factor weighs in favor of settlement because it results in an immediate resolution of all disputes and avoids the unnecessary costs, delay and uncertainty attendant with litigation.

As to the fourth A&C Factor (best interest of creditors) the tentative ruling is that this factor is neutral because Debtor disclosed the property that is the primary subject of the parties' dispute: 316 Oompaul St., Johannesburg, CA 93528 on Schedule A (dkt. 1, p.11) and the Chapter 7 Trustee has not indicated an intent to administer the property if the settlement is approved.

(b) Contempt/Sanctions motion (dkt. 24, 25), Opposition of Jordan Jarvis and Dixon G. Kummer, Esq ("Respondents") (dkt. 30), Debtor's reply (dkt. 31), interim order (dkt. 32), Debtor's notice of errata (dkt. 34), Dixon declaration (dkt. 35), Order assigning matter to mediation (dkt. 36) & proof of service (dkt. 38), mediator's certificate of conclusion of mediation (dkt. 42) Declaration of Dixon G. Kummer re status of mediation (dkt. 43)

If this Court adopts its tentative ruling approving the settlement agreement, the tentative ruling is to deny this motion as moot.

(c) Jarvis v. Garcia (Adv. No. 2:21-ap-01006-NB, the "Removed Action"), Debtor's declaration (adv. dkt. 4)

If this Court adopts its tentative ruling approving the settlement agreement, the tentative ruling is to dismiss this proceeding as moot.

Proposed orders: Mr. Kummer is directed to lodge proposed orders on *each* of the foregoing matters ("(a)", "(b)" and "(c)") via LOU within 7

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days after the hearing date; attach a copy of this tentative ruling to the order on item "(a)"; and incorporate that tentative ruling by reference as the final ruling in all three orders. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 9/18/20.

(a) Continued status conference in the adversary proceeding: 9/28/21 at 2:00 p.m. (to go off calendar if orders are entered before then on the matters addressed in part "(1)" of this tentative ruling).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone**. You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Socorro Evelina Garcia

Represented By

Nathan A Berneman

Defendant(s):

Socorro Garcia

Pro Se

DOES 1 through 20, inclusive

Pro Se

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Plaintiff(s):

Jordan Jarvis

Pro Se

Trustee(s):

Elissa Miller (TR)

Pro Se

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2:18-24302 GL Master Inc

Chapter 7

#5.00 Second Cont'd Evidentiary Hrg re: Order to Show Cause re: Civil Contempt and Directing (i) Debtor, (ii) Freda Wang, (iii) Thomas Polis, (iv) Lynn Chao, (v) The Law Offices of Lynn Chao to Appear and Show Cause Why This Court Should Not Find Them in Contempt and Impose Sanctions fr. 8/19/20, 9/17/20, 11/3/20, 12/1/20, 12/22/20, 1/5/21, 1/26/21, 4/27/21, 5/11/21, 06/01/21, 6/15/21, 7/20/21

Docket 173

Tentative Ruling:

Tentative Ruling for 8/3/21:

Appearances required by Thomas J. Polis, Esq., Ms. Freda Wang, and Ms. Lynn Chao.

(1) Current issues

(a) Background: ongoing failure to abide by orders of this Court

On 7/22/21 this Court entered its "Supplemental Order re Continued Hearing on Increasing Coercive Sanctions Against Freda Wang, Lynn Chao, the Law Offices of Lynn Chao, A.P.C., and Debtor" (dkt. 330, the "Supplemental Coercive Sanctions Order"). That order directed the Contemnors to pay coercive sanctions owing through 7/16/21 by 7/27/21 and established supplemental briefing deadlines for Mr. Polis to address several issues.

Based on this Court's review of the docket, Mr. Polis' supplemental declaration (dkt. 333), and the Alleged Employees' response (dkt. 334, 335) the parties are directed to appear to address the following issues.

(b) Failure to pay coercive sanctions

As of the preparation of this tentative ruling, the Contemnors have not paid the \$19,600.00 in outstanding coercive contempt sanctions owing through 7/16/21. Additional coercive sanctions of \$700.00/week per Contemnor have also come due (\$5,600.00 for the weeks ending 7/23/21 and 7/30/21) and have not been paid. Additional coercive sanctions will come due on 8/6/21 in the amount of \$700.00 per Contemnor (for a total of \$2,800.00).

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The aggregate amount through 8/6/21 is **\$28,000.00**. (\$19,600.00 + \$5,600.00 + \$2,800.00 = \$28,000.00).

(c) Failure of Mr. Polis to identify how prior coercive sanction payments should be allocated

The Supplemental Coercive Sanctions Order (dkt. 330, p. 2:9-12) directed Mr. Polis to "file a Declaration no later than July 27, 2021 ... identifying how the coercive sanction payments should be allocated between the individual Contemors." As of the preparation of this tentative ruling, Mr. Polis has not addressed this issue at all.

(d) Failure of Mr. Polis to comply with this Court's discovery orders

Despite Mr. Polis' representations at the hearing on July 20, 2021 that his office has a practice of immediately turning over responsive documents to Counsel for the Alleged Employees, Mr. Polis's supplemental declaration (dkt. 333, p.3:7-17) admits that he failed to do so. That is startling.

The history is that on 5/17/21 Mr. Polis filed the declaration of Johnny Ling, with Mr. Polis' name listed in the caption, in which Johnny Ling declared: "I have personally reviewed the Law Offices of Lynn Chao, A.P.C.'s documents, books and records relevant to the extent necessary to prepare this declaration" (dkt. 306, p. 8:17-18), and "[unspecified] documents are being sent directly to the Alleged Employees' counsel through Contemors' counsel's office [i.e., through Mr. Polis]." *Id.* (dkt. 306), p. 9:24-25 (emphasis added). Mr. Polis now declares (dkt. 333, pp. 2:27-3:3) that on the same day, 5/17/21, he did in fact receive three emails from Johnny Ling and forwarded them to his legal assistant to be turned over to the Alleged Employees' counsel.

But within days thereafter the Alleged Employees notified Mr. Polis that they had not received any such documents. They did so on 5/20/21, stating: "As of this date, this office has not received any such documents." Dkt. 309, p. 6:27-28. (Later, they may have reiterated later the documents still were missing - this Court recalls that they did so at the hearing on 6/15/21.)

Mr. Polis does not declare that the Alleged Employees' reference(s) to missing documents prompted him to ask his legal assistant why the documents had not been forwarded. Instead, Mr. Polis declares (dkt. 333, p. 3:4-6) that by the time of the hearing on 7/20/21 he had forgotten that any such documents ever existed, and therefore he wrongly (but adamantly)

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asserted that he had never received such documents.

Meanwhile, Johnny Ling apparently had the same alleged lapse of memory. On 7/14/21 Mr. Polis filed another declaration of Johnny Ling, again with Mr. Polis' name listed in the caption, in which Johnny Ling declared: "All communications with GL Master, Inc. (formerly Little Sheep International, Inc.) that would not violate confidentiality and attorney-client privilege with other parties have been produced in previous productions in October 2019 and December 2019" - he makes no mention of the documents that he provided to Mr. Polis on 5/17/21. Ling Decl. (dkt. 325), p.9:20-22 (emphasis added).

At the very least, the above history appears to exhibit an extremely cavalier attitude toward discovery. In addition, this Court notes that the explanations offered by Mr. Polis are not supported by any declaration from his legal assistant nor any supplemental declaration from Mr. Ling verifying the specific documents and number of pages that he provided to Mr. Polis.

Moreover, as the Alleged Employees point out (dkt. 334, pp. 3:12-4:3 and 5:3-5), there is still no privilege log covering the several litigation matters that Johnny Ling admits handling for Debtor, despite his references to "confidentiality and attorney-client privilege." Dkt. 325, p.9:20-22. Mr. Polis does not address the missing privilege logs.

Nor is there any definitive declaration from Mr. Polis about what responsive documents he has or has not received from Johnny Ling at any time, or from anyone else at any time, as this Court ordered him to file. Specifically, the Supplemental Coercive Sanctions Order directed Mr. Polis "to file a declaration no later than July 27, 2021," addressing:

- a) Whether he received responsive documents from Mr. Johnny Ling or anyone else; and,
- b) Whether he has produced all or part of such documents to the Alleged Employee's counsel.

In the event documents have been withheld, by no later than July 27, 2021, Mr. Polis is to file and serve a brief and declaration(s), with a privilege log attached, addressing any alleged grounds for withholding any documents. [Supplemental Coercive Sanctions Order (dkt. 330), p. 2:13-20.]

Again, the Alleged Employees point this out. See dkt. 334, pp. 3:12-4:3 and 5:3-5.

(e) Ongoing failure to comply with discovery orders

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The Alleged Employees argue persuasively (dkt. 334) that the latest responses by the Contemnors and Mr. Polis only reinforce that they are failing to comply with this Court's discovery orders. To put it bluntly, they are only digging themselves a deeper hole.

(f) Consequences

This Court anticipates addressing at the hearing some possible consequences of the foregoing acts and omissions. At a minimum, this Court anticipates increasing the dollar amount of daily coercive sanctions imposed on the Contemnors. The tentative ruling is also to continue this matter to **8/31/21 at 2:00 p.m.** to assess again whatever further coercive measures may be appropriate until the Contemnors and Mr. Polis comply with their discovery obligations and this Court's orders.

Proposed order: Counsel for the Alleged Employees is directed to lodge a proposed order via LOU within 7 days after the hearing date providing for whatever increased coercive sanctions this Court orders, and attach a copy of this tentative ruling, thereby adopting it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone.** You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

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[PRIOR TENTATIVE RULINGS OMITTED. See dkt. 253, 289 (sanctions v. Young Young Foods) and dkt. 276, 291, 327, 330 (sanctions v. Debtor, ChaoLaw, Ms. Freda Wang, etc.).]

Party Information

Debtor(s):

GL Master Inc

Represented By
Thomas J Polis

Trustee(s):

Edward M Wolkowitz (TR)

Pro Se

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#6.00 Cont'd Order to Show Cause re: Civil Contempt Against Young Young Food LLC, and For Sanctions fr. 10/27/20, 12/1/20, 12/22/20, 1/5/21, 1/26/21, 4/27/21, 5/11/21, 6/1/21, 6/15/21, 7/20/21

Docket 213

Tentative Ruling:

Tentative Ruling for 8/3/21:

Appearances required.

(1) YYF Coercive Sanctions Order (dkt. 289)

The YYF Coercive Sanctions Order provided that YYF "shall be liable for \$500 in daily sanctions for each day after December 1, 2020" that it fails to produce/provide documents and information responsive to the Alleged Employees' discovery requests (dkt. 289, p.2:4-10). That order also provided that YYF "may with notice to all parties seek leave of Court to lift these daily sanctions on the basis of YYF's compliance with this Court's Orders" (*id.*, p.2:11-12).

Based on this Court's calculations, as of the date of this hearing, coercive sanctions have accrued in the amount of **\$122,500.00** (245 days x \$500/day) and there is no evidence that YYF has made a single payment, produced any (or supplemental) discovery, or otherwise sought leave to avoid the accrual of future sanctions.

The parties are directed to address what alternative coercive measures this Court should impose, and whether this Court should set supplemental briefing deadlines for the parties to brief that issue, in view of the Contemnors continuing failure to comply with this Court's orders.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard

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on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone**. You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED. See dkt. 253, 289 (sanctions v. Young Young Foods) and dkt. 276, 291, 327, 330 (sanctions v. Debtor, ChaoLaw, Ms. Freda Wang, etc.).]

Party Information

Debtor(s):

GL Master Inc

Represented By
Thomas J Polis

Trustee(s):

Edward M Wolkowitz (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Wednesday, August 4, 2021

Hearing Room 1545

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- #1.00** Hearings in Judge Bason's courtroom (1545) are now **simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone.** You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. ZoomGov appearances are free.

ZoomGov Instructions for all matters on today's calendar:

Meeting ID: 160 841 0480

Password: 906144

Meeting URL: <https://cacb.zoomgov.com/j/1608410480>

Telephone: +1 669 254 5252 or +1 646 828 7666 or 833 568 8864 (Toll Free)

Please connect at least 5 minutes before the start of your hearing, and wait with your microphone muted until your matter is called.

CHAPTER 13: Persons needing to contact the Chapter 13 Trustee's attorney, either prior to the hearing or during a recess, can call Kaleen Murphy, Esq. at (213) 996-4433.

Docket 0

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Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Wednesday, August 4, 2021

Hearing Room 1545

10:00 AM

2:20-11333 Edmund Lincoln Anderson

Chapter 11

#0.00 Pretrial Conference re: Chapter 11 Case
fr. 3/3/20, 3/10/20, 4/7/20, 4/21/20, 6/2/20, 7/14/20,
7/28/20, 8/18/20, 9/1/20, 10/6/20, 10/27/20, 12/1/20,
1/5/21, 2/9/21, 03/02/21, 3/23/21, 4/27/21, 5/11/21,
6/1/21, 6/15/21, 7/20/21

Docket 1

Party Information

Debtor(s):

Edmund Lincoln Anderson

Represented By
Stella A Havkin

Trustee(s):

John P Pringle (TR)

Represented By
Toan B Chung

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Wednesday, August 4, 2021

Hearing Room 1545

10:00 AM

2:20-11333 Edmund Lincoln Anderson

Chapter 11

#1.00 Trial re: Chapter 11 Case
fr. 3/3/20, 3/10/20, 4/7/20, 4/21/20, 6/2/20, 7/14/20,
7/28/20, 8/18/20, 9/1/20, 10/6/20, 10/27/20, 12/1/20,
1/5/21, 2/9/21, 03/02/21, 3/23/21, 4/27/21, 5/11/21,
6/1/21, 6/15/21

Docket 1

Party Information

Debtor(s):

Edmund Lincoln Anderson

Represented By
Stella A Havkin

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, August 12, 2021

Hearing Room 1545

8:00 AM
2:00-00000

Chapter

- #1.00** Hearings in Judge Bason's courtroom (1545) are now **simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone.** You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. ZoomGov appearances are free.

ZoomGov Instructions for all matters on today's calendar:

Meeting ID: 161 493 8945
Password: 554568

Meeting URL: <https://cacb.zoomgov.com/j/1614938945>
Telephone: +1 669 254 5252 or +1 646 828 7666 or 833 568 8864 (Toll Free)

Please connect at least 5 minutes before the start of your hearing, and wait with your microphone muted until your matter is called.

CHAPTER 13: Persons needing to contact the Chapter 13 Trustee's attorney, either prior to the hearing or during a recess, can call Kaleen Murphy, Esq. at (213) 996-4433.

Docket 0

Tentative Ruling:

- NONE LISTED -

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, August 12, 2021

Hearing Room 1545

8:30 AM

2:19-18958 Merlyn Salinas

Chapter 13

#1.00 Hrg re: Motion Under Local Bankruptcy Rule 3015-1
(n) and (w) to Modify Plan or Suspend Plan Payments

Docket 29

Tentative Ruling:

Appearances required, absent either (1) an agreement with the Chapter 13 Trustee's office to further continue this matter or (2) withdrawal of the motion by Debtor. There is no tentative ruling, but the parties should be prepared to address the issues raised by the Chapter 13 Trustee (dkt. 30).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone**. You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Merlyn Salinas

Represented By
Thomas B Ure

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, August 12, 2021

Hearing Room 1545

8:30 AM

CONT... Merlyn Salinas

Chapter 13

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, August 12, 2021

Hearing Room 1545

8:30 AM

2:20-18119 Ella Love-Smith

Chapter 13

#2.00 Hrg re: Motion Under Local Bankruptcy Rule 3015-1
(n) and (w) to Modify Plan or Suspend Plan Payments

Docket 33

Tentative Ruling:

Appearances required, absent either (1) an agreement with the Chapter 13 Trustee's office to further continue this matter or (2) withdrawal of the motion by Debtor. There is no tentative ruling, but the parties should be prepared to address the issues raised by the Chapter 13 Trustee (dkt. 34).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone**. You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Ella Love-Smith

Represented By
Devin Sawdayi

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, August 12, 2021

Hearing Room 1545

8:30 AM

CONT... Ella Love-Smith

Chapter 13

United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar

Thursday, August 12, 2021

Hearing Room 1545

8:30 AM

2:20-11950 Armando Hernandez and Rita Hernandez

Chapter 13

#3.00 Hrg re: Chapter 7 Trustee's General Counsel's First and
Final Application For Fees And Costs

Docket 64

Tentative Ruling:

Approve the fee application of Gonzalez & Gonzalez Law, P.C. and authorize payment of \$15,870 in fees and \$389.58 in expenses, for a total award of \$16,259.58. Appearances are not required.

Proposed order: Applicant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone.** You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Armando Hernandez

Represented By
Michael Jay Berger

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, August 12, 2021

Hearing Room 1545

8:30 AM

CONT... Armando Hernandez and Rita Hernandez

Chapter 13

Joint Debtor(s):

Rita Hernandez

Represented By
Michael Jay Berger

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, August 12, 2021

Hearing Room 1545

8:30 AM

2:20-11950 Armando Hernandez and Rita Hernandez

Chapter 13

#4.00 Hrg re: Application for Payment of Final Fees and/or Expenses
for Brad D Krasnoff, Chapter 7 Trustee Chapter 7

Docket 69

Tentative Ruling:

Continue to 9/9/21 at 8:30 a.m. to address the following issues. Appearances are not required on 8/12/21.

Reasons:

Service. The motion papers were not served on all creditors as required by LBR 3015-1(x).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone.** You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Armando Hernandez

Represented By
Michael Jay Berger

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, August 12, 2021

Hearing Room 1545

8:30 AM

CONT... Armando Hernandez and Rita Hernandez

Chapter 13

Joint Debtor(s):

Rita Hernandez

Represented By
Michael Jay Berger

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, August 12, 2021

Hearing Room 1545

8:30 AM

2:21-11664 Rodolfo Martinez and Reina Beatriz De Paz

Chapter 13

#5.00 Hrg re: Motion for Order Determining Value of Collateral

Docket 26

***** VACATED *** REASON: Resolved by stipulation (dkt. 43) and order thereon.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Rodolfo Martinez

Represented By
Daniela P Romero

Joint Debtor(s):

Reina Beatriz De Paz

Represented By
Daniela P Romero

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, August 12, 2021

Hearing Room 1545

8:30 AM

2:18-24652 Jennifer Lynne Kaba

Chapter 13

#6.00 Hrg re: Debtor's Motion for Order Disallowing Proof of Claim 4-1

Docket 44

Tentative Ruling:

Continue to 9/9/21 at 8:30 a.m. to address the following issues. Appearances are not required on 8/12/21.

Reasons:

(A) Grounds for objection

Debtor objects to the proof of claim on the grounds that it does not contain sufficient documentation as required by Rule 3001(c). Dkt. 44, p.2:8-15. But failure to attach supporting documentation, by itself, is not a proper basis to disallow a claim under 11 U.S.C. 502(b). As stated by this Court in its Memorandum Decision Regarding Debtor's Claim Objections in *In re Orozco*, available on the court's website:

It is true that under Rule 3001(f) a proof of claim must be "executed and filed in accordance with these rules" in order to automatically "constitute *prima facie* evidence of the validity and amount of the claim." But a rule cannot supersede a statute, and as held by the Bankruptcy Appellate Panel for the Ninth Circuit ("BAP"), an objecting party must do more than simply point to a lack of compliance with Rule 3001 in order to obtain an order disallowing a claim: the objecting party must establish an actual basis to contest the liability or amount of the claim. *See In re Campbell*, 336 B.R. 430 (9th Cir. BAP 2005); *In re Heath*, 331 B.R. 424 (9th Cir. BAP 2005). *See also Travelers Cas. & Sur. Co. of Am. V. Pac. Gas & Elec. Co.*, 549 U.S. 443, 449 (2007) ("the court 'shall allow' the claim 'except to the extent that' the claim implicates any of the nine exceptions enumerated in § 502(b)") (quoting the statute). [2:13-bk-15745-NB, dkt. 134 at p.5:8-19]

No later than 7 days after the date of this hearing the movant must file and serve either: (1) supplemental papers addressing what statutory ground exists for denial of the claim (if such grounds exist, and if the costs of further

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, August 12, 2021

Hearing Room 1545

8:30 AM

CONT...

Jennifer Lynne Kaba

Chapter 13

proceedings are worth the likely benefits - see below) or (2) a withdrawal of the claim objection.

(B) Lack of cost/benefit analysis. The posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) provide:

§ 502: claim objections & cost/benefit analysis. When objecting to claims, be sure to include an analysis of whether the costs of preparing and litigating the claim objection (administrative expenses) do not exceed the anticipated benefits (reductions in claims). For example, if the anticipated dividend is small or 0% then the attorney fees incurred in prosecuting your claim objection to any general unsecured claim probably will exceed the benefit to the bankruptcy estate/debtor, so filing that objection would be a waste of the bankruptcy estate's (and everyone else's) resources (unless, for example, the claim is nondischargeable, in which event the attorney fees might well be justified).

No later than 7 days after the date of this hearing the movant must file and serve either:

(1) a supplemental declaration (x) explaining why the attorney fees for this objection are justified (including supporting evidence, such as a copy of the plan showing the projected dividend to the claimant, and a calculation comparing that projected dividend against the attorney fees related to this claim objection) and, (y) providing a valid basis to disallow the claim under 11 U.S.C. 502(b), or

(2) a withdrawal of the claim objection.

(C) No fees on this matter, absent specific authorization. Counsel is directed not to charge any fees on this matter (including all past, present and future work related to this claim objection), and return any fees received on this matter, unless and until this Court expressly finds: "Counsel has provided a cost/benefit analysis that is sufficient for purposes of Judge Bason's posted Procedures regarding claim objections." It is counsel's responsibility to include the quoted phrase, if warranted, in the proposed order on this claim objection.

This Court does not have the capacity to monitor all fee applications to assure compliance with the foregoing limitation on fees. But if counsel is found to have disregarded this limitation then this Court may impose

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, August 12, 2021

Hearing Room 1545

8:30 AM

CONT... Jennifer Lynne Kaba
sanctions.

Chapter 13

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone**. You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Jennifer Lynne Kaba

Represented By

Sanaz Sarah Bereliani

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, August 12, 2021

Hearing Room 1545

8:30 AM

2:21-12636 Victor Guerrero

Chapter 13

#7.00 Hrg re: Objection to Proof of Claim Number 4 by Claimant
Jefferson Capital Systems, LLC

Docket 25

Tentative Ruling:

Continue to 9/9/21 at 8:30 a.m. to address the following issues. Appearances are not required on 8/12/21.

Reasons:

Lack of cost/benefit analysis. The posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) provide:

§ 502: claim objections & cost/benefit analysis. When objecting to claims, be sure to include an analysis of whether the costs of preparing and litigating the claim objection (administrative expenses) do not exceed the anticipated benefits (reductions in claims). For example, if the anticipated dividend is small or 0% then the attorney fees incurred in prosecuting your claim objection to any general unsecured claim probably will exceed the benefit to the bankruptcy estate/debtor, so filing that objection would be a waste of the bankruptcy estate's (and everyone else's) resources (unless, for example, the claim is nondischargeable, in which event the attorney fees might well be justified).

No later than 7 days after the date of this hearing the movant must file either:

(1) a supplemental declaration explaining why the attorney fees for this objection are justified (including supporting evidence, such as a copy of the plan showing the projected dividend to the claimant, and a calculation comparing that projected dividend against the attorney fees related to this claim objection), or

(2) a withdrawal of the claim objection.

No fees on this matter, absent specific authorization. Counsel is directed not to charge any fees on this matter (including all past, present and future work

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, August 12, 2021

Hearing Room 1545

8:30 AM

CONT...

Victor Guerrero

Chapter 13

related to this claim objection), immediately withdraw the fee application filed 7/15/21 (dkt. 34) and return any fees received on this matter, unless and until this Court expressly finds: "Counsel has provided a cost/benefit analysis that is sufficient for purposes of Judge Bason's posted Procedures regarding claim objections." It is counsel's responsibility to include the quoted phrase, if warranted, in the proposed order on this claim objection.

This Court does not have the capacity to monitor all fee applications to assure compliance with the foregoing limitation on fees. But if counsel is found to have disregarded this limitation then this Court may impose sanctions.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone**. You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Victor Guerrero

Represented By
Sundee M Teeple

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, August 12, 2021

Hearing Room 1545

8:30 AM

2:16-24543 Marina Moreno Romero

Chapter 13

#8.00 Cont'd hrg re: Debtor's Objection to the Amended
Claim of Capital One Auto Finance [Claim 5]
fr. 6/24/21

Docket 75

***** VACATED *** REASON: Order approving stipulation, resolved [dkt.
83]**

Tentative Ruling:

Party Information

Debtor(s):

Marina Moreno Romero

Represented By
Nicholas W Gebelt

Trustee(s):

Kathy A Dockery (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar

Thursday, August 12, 2021

Hearing Room 1545

9:30 AM
2:00-00000

Chapter

#0.00 **PLEASE BE ADVISED THAT THE CHAPTER 13 9:30 AM
CONFIRMATION CALENDAR CAN BE VIEWED ON THE
COURT'S WEBSITE (www.cacb.uscourts.gov) UNDER:
JUDGES>BASON, N.>CHAPTER 13>CONFIRMATION HEARINGS CALENDAR**

Docket 0

Tentative Ruling:

**PLEASE BE ADVISED THAT THE CHAPTER 13 9:30 AM
CONFIRMATION CALENDAR CAN BE VIEWED ON THE
COURT'S WEBSITE (www.cacb.uscourts.gov) UNDER:
JUDGES>BASON, N.>CHAPTER 13>CONFIRMATION HEARINGS CALENDAR**

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, August 12, 2021

Hearing Room 1545

11:00 AM
2:00-00000

Chapter

**#0.00 PLEASE BE ADVISED THAT THE CHAPTER 13 HEARINGS
at 11:00 AM CAN BE VIEWED ON THE COURT'S WEBSITE
(www.cacb.uscourts.gov) UNDER: JUDGES>BASON, N.>CHAPTER 13**

Docket 0

Tentative Ruling:

- NONE LISTED -

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, August 17, 2021

Hearing Room 1545

9:00 AM

2:00-00000

Chapter

- #1.00** Hearings in Judge Bason's courtroom (1545) are now **simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone.** You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. ZoomGov appearances are free.

ZoomGov Instructions for all matters on today's calendar:

Meeting ID: 161 436 4340

Password: 798007

Meeting URL: <https://cacb.zoomgov.com/j/1614364340>

Telephone: +1 669 254 5252 or +1 646 828 7666 or 833 568 8864 (Toll Free)

Please connect at least 5 minutes before the start of your hearing, and wait with your microphone muted until your matter is called.

CHAPTER 13: Persons needing to contact the Chapter 13 Trustee's attorney, either prior to the hearing or during a recess, can call Kaleen Murphy, Esq. at (213) 996-4433.

Docket 0

Tentative Ruling:

- NONE LISTED -

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, August 17, 2021

Hearing Room 1545

10:00 AM

2:19-10274 Luisa S Paredes

Chapter 13

#1.00 Hrg re: Motion for relief from stay [RP]

AJX MORTGAGE TRUST II
vs
DEBTOR

Docket 69

***** VACATED *** REASON: APO**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Luisa S Paredes

Represented By
Ali R Nader

Movant(s):

AJX Mortgage Trust II, a Delaware

Represented By
Joshua L Scheer
Reilly D Wilkinson

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, August 17, 2021

Hearing Room 1545

10:00 AM

2:21-10345 Adrienne Michelle Williams

Chapter 13

#2.00 Hrg re: Motion for relief from stay [RP]

U.S. BANK NATIONAL ASSOCIATION
vs
DEBTOR

Docket 41

Tentative Ruling:

Appearances are not required.

Grant as set forth below.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, August 17, 2021

Hearing Room 1545

10:00 AM

CONT... Adrienne Michelle Williams

Chapter 13

resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone.** You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Adrienne Michelle Williams

Represented By
Ali R Nader

Movant(s):

U.S. BANK NATIONAL

Represented By
Sean C Ferry

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, August 17, 2021

Hearing Room 1545

10:00 AM

2:21-14575 Donna Jean Lorkowski

Chapter 7

#3.00 Hrg re: Motion for relief from stay [RP]

NEWREZ LLC d/b/a SHELLPOINT MORTGAGE
SERVICING

Docket 11

Tentative Ruling:

Appearances are not required.

Grant as set forth below.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard

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CONT... Donna Jean Lorkowski

Chapter 7

on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone**. You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Donna Jean Lorkowski

Represented By
Adam Stevens

Movant(s):

NewRez LLC d/b/a Shellpoint

Represented By
Megan E Lees

Trustee(s):

Brad D Krasnoff (TR)

Pro Se

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2:19-13045 Pamela Nugal

Chapter 13

#4.00 Cont'd Hrg re: Motion for relief from stay [RP]
fr. 07/20/21

SELECT PORTFOLIO SERVICING, INC.
VS
DEBTOR

Docket 28

***** VACATED *** REASON: Continued per stipulation (dkt. 34) and
order thereon.**

Tentative Ruling:

Party Information

Debtor(s):

Pamela Nugal

Represented By
Leon D Bayer

Movant(s):

Select Portfolio Servicing, Inc. as

Represented By
Josephine E Salmon

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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10:00 AM

2:21-12832 Alexander Zerkovsky

Chapter 7

#5.00 Cont'd hrg re: Motion for relief from stay [NA]
fr. 6/29/21

KATHLEEN AND PATRICK STONE
vs
DEBTOR

Docket 15

Tentative Ruling:

Tentative Ruling for 8/17/21:
Appearances required.

At the hearing on 6/29/21 this Court granted the motion but deferred entering an order to allow time for the parties to participate in mandatory mediation. On 8/16/21, this Court received an *ex parte* communication from the mediator that Debtor did not meet the mediator's deadlines for submitting a mediation brief. There is no tentative ruling, but the parties should be prepared to provide an update on the status of mediation.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone.** You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the

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CONT... Alexander Zerkovsky Chapter 7

posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

**Tentative Ruling for 6/29/21:
Appearances are not required.**

Grant as set forth below.

Proposed order: This Court will prepare an order after the hearing date.

Key documents reviewed (in addition to motion papers): Debtor's opposition (dkt. 17), no reply is on file

Analysis:

(1) Notice

Debtor highlights that the motion papers were not served until 6/9/21 (20 days before the hearing) (see dkt. 15 and LBR 9013-1(d)(2) requiring 21 days' notice). But the Posted Procedures of Judge Bason's (available at www.cacb.uscourts.gov) permit parties to file this type of motion on shortened time - 14 days' notice - without prior approval.

True, Movants failed to modify the local form of notice to state the foregoing, and to note that the deadline for any opposition is five calendar days before the hearing date. But Debtor has not alleged or provided evidence of any prejudice, so the tentative ruling is to overrule Debtor's objection to Movants' notice.

(2) The automatic stay does not apply

The tentative ruling is to grant the motion under 11 U.S.C. 362(c)(3) and (j): there is no automatic stay because (a) Debtor's prior case (#2:20-bk-15695-NB) was dismissed (on 10/26/20) within one year before this case was filed (on 4/7/21), (b) that dismissal was not under 11 U.S.C. 707(b), and (c) no finding of good faith was timely sought and obtained. The automatic stay has terminated both as to Debtor *in personam* and as to property of Debtor. See *In re Reswick*, 446 B.R. 362 (9th Cir. BAP 2011); *In re Hernandez*, case no. 2:11-bk-53730-NB, docket #40 (Memorandum Decision).

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CONT...

Alexander Zerkovsky

Chapter 7

In the alternative and in addition, the tentative ruling is that the automatic stay does not apply pursuant to this Court's order issued in Debtor's prior case, which provides "[t]his order is binding and effective in any bankruptcy case commenced by or against the Debtor for a period of 180 days, so that no further automatic stay shall arise in that case as to the nonbankruptcy action." *Id.* at p.2, para. "(9)". Because Debtor commenced this case on 4/7/21, which is within the 180-day period contemplated by that Order, no automatic stay applies in this case as against Movants.

(3) Alternative relief: if the automatic stay were to apply for some reason (which it does not), there is cause to grant relief

In the alternative and in addition, the tentative ruling is to grant relief from the automatic stay as follows.

Note regarding mootness: Judge Bason's standard tentative ruling is as follows. For three reasons the above tentative ruling that there *is no stay* does not moot requests for relief from whatever stay might apply. First, such *alternative* rulings are appropriate because (i) the very nature of *tentative* rulings is that this Court could be persuaded to depart from any one of them, and (ii) a *final* ruling on any one issue could be reversed on appeal. Second, even if there is currently no stay, that could change - *e.g.*, if there is no stay because of dismissal of this bankruptcy case, such dismissal could be vacated and that might reimpose the stay even if there is a lack of adequate protection, or other grounds why the stay should not apply, and therefore the movant will suffer cognizable harm unless the issues are addressed now (Judge Bason regularly vacates dismissals based on stipulations or other good cause). Third, if the motion includes any request for relief as to *past* acts (annulment) or *future* cases (*in rem* relief), those things are still at issue even if there is no *current* automatic stay. See *In re Aheong*, 276 B.R. 233 (9th Cir. BAP 2002). For all of these reasons, the tentative ruling is that it is appropriate to address the following issues.

On the merits, the tentative ruling is to terminate the automatic stay under 11 U.S.C. 362(d)(1). Debtor argues that Movants do not specify what "cause" they assert for relief; but Movants implicitly rely on the same cause that persuaded this Court to grant them relief in Debtor's prior bankruptcy case. See R/S Motion (Case No. 2:20-bk-15695-NB, dkt. 39) and R/S Order (dkt. 41). In that case Movants established that Debtor filed that bankruptcy

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CONT... Alexander Zerkovsky

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case without notice to them, and then attempted to use that bankruptcy case to render void the \$35,000 arbitration award against Debtor in favor of Movants. That conduct was and is cause to grant Movants the relief they seek.

In addition, this Court's records show that Debtor's prior bankruptcy case was dismissed for infeasibility. Debtor's history of having used an infeasible bankruptcy case to frustrate Movants' attempts to collect their arbitration award is alternative and additional cause for relief from any automatic stay in this case (if any such stay existed, which it does not).

(4) Relief notwithstanding future bankruptcy cases.

The tentative ruling is that Debtor's conduct described above establishes that the filing of this bankruptcy case was part of a scheme to hinder, delay, or defraud Movants and that it is appropriate to grant relief that will be effective notwithstanding any future bankruptcy cases under the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017):

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is sufficient evidence and notice.

(5) Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)

(3).

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CONT... Alexander Zerkovsky

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If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Alexander Zerkovsky

Represented By
Khachik Akhkashian

Movant(s):

Kathleen and Patrick Stone

Pro Se

Trustee(s):

Carolyn A Dye (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Los Angeles
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Hearing Room 1545

11:00 AM

2:19-20396 Irene H Kim

Chapter 7

#1.00 Hrg re: Motion of Chapter 7 Trustee for Order
Compelling Turnover of Real Property

Docket 76

Tentative Ruling:

Grant the motion as to the Debtor, but continue this matter to 8/31/21 at 11:00 a.m. with a deadline of 8/18/21 for the Trustee to serve the motion papers on "all occupants" of the subject property and file a proof of service. Appearances are not required on 8/17/21.

Option for interim/partial order: Movant may elect to lodge a proposed order granting the *partial* relief provided in this tentative ruling, but any such order must recite that a continued hearing has been set to consider additional relief (or, alternatively, that the movant no longer seeks additional relief and the Clerk's office is requested and directed to take the continued hearing off calendar).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone**. You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

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CONT... Irene H Kim

Chapter 7

Debtor(s):

Irene H Kim

Represented By
Donald E Iwuchuku

Trustee(s):

Timothy Yoo (TR)

Represented By
Carmela Pagay

**United States Bankruptcy Court
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11:00 AM

2:17-16034 Advanced Care Animal Hospital, Inc.

Chapter 7

#2.00 Hrg re: Trustee's final report and account;
Application for fees and expenses
[Sam S. Leslie, Ch. 7 Trustee]

Docket 37

Tentative Ruling:

Approve the Trustee's request for \$1,345.35 in fees and \$0.00 in expenses, but authorize payment in the reduced amounts proposed in the Trustee's Final Report (dkt. 38, p. 3). Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone.** You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Advanced Care Animal Hospital,

Represented By
Mark T Young

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CONT... Advanced Care Animal Hospital, Inc.

Chapter 7

Trustee(s):

Sam S Leslie (TR)

Pro Se

**United States Bankruptcy Court
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Los Angeles
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Hearing Room 1545

11:00 AM

2:17-16034 Advanced Care Animal Hospital, Inc.

Chapter 7

#3.00 Hrg re: Application for Compensation of Final Fees and/or Expenses
[Filed by LEA Accountancy, LLP, Accountant for the trustee]

Docket 35

Tentative Ruling:

Approve LEA Accountancy, LLP's request for \$6,931 in fees and \$266.11 in expenses, for a total of \$7,197.11, but authorize payment in the reduced amounts proposed in the Trustee's Final Report (dkt. 38, p. 3). Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone.** You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Advanced Care Animal Hospital,

Represented By
Mark T Young

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CONT... Advanced Care Animal Hospital, Inc.

Chapter 7

Trustee(s):

Sam S Leslie (TR)

Pro Se

**United States Bankruptcy Court
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Tuesday, August 17, 2021

Hearing Room 1545

11:00 AM

2:21-10360 Maureen C. Redmond

Chapter 7

#4.00 Hrg re: Judgment Creditor Sulphur Mountain Land and Livestock Co., LLC's motion to strike reply of Lori Haynes to judgment creditor Sulphur Mountain Land and Livestock Co., LLC's opposition to debtor Maureen C. Redmond's motion to avoid judicial lien

Docket 60

***** VACATED *** REASON: This matter is scheduled to be heard on 09/14/21 at 11:00 a.m. per parties' Stipulation (dkt. 71)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Maureen C. Redmond

Represented By
Raymond H. Aver

Trustee(s):

Carolyn A Dye (TR)

Pro Se

**United States Bankruptcy Court
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11:00 AM

2:21-10360 Maureen C. Redmond

Chapter 7

#5.00 Cont'd Hrg re: Motion to Avoid Lien Property Lien
with Sulphur Mountain Land And Livestock Co., LLC
fr. 07/06/21, 07/20/21

Docket 39

***** VACATED *** REASON: This matter is scheduled to be heard on
09/14/21 at 11:00 a.m. per parties Stipulation (dkt. 71)**

Tentative Ruling:

Party Information

Debtor(s):

Maureen C. Redmond

Represented By
Raymond H. Aver

Trustee(s):

Carolyn A Dye (TR)

Pro Se

**United States Bankruptcy Court
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11:00 AM

2:21-10360 Maureen C. Redmond

Chapter 7

#6.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 6/15/21, 7/20/21

NATIONSTAR MORTGAGE LLC
VS
DEBTOR

Docket 31

***** VACATED *** REASON: Cont'd to 9/14/21 at 11:00 a.m. [dkt. 72]**

Tentative Ruling:

Party Information

Debtor(s):

Maureen C. Redmond

Represented By
Raymond H. Aver

Movant(s):

Nationstar Mortgage LLC

Represented By
Cassandra J Richey

Trustee(s):

Carolyn A Dye (TR)

Pro Se

**United States Bankruptcy Court
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Tuesday, August 17, 2021

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11:00 AM

2:20-15862 Jose Luis Almendariz
Adv#: 2:20-01644 McLees v. Almendariz

Chapter 13

#7.00 Cont'd Status Conference re: Complaint for Determination of Non-Dischargeability of Debt Pursuant to 11 U.S.C. Sections 523(a)(2) and (a)(4) fr. 12/22/20, 03/02/21, 4/6/21, 6/15/21

Docket 1

***** VACATED *** REASON: Continued to 10/26/2021 at 11:00 a.m. [dkt. 37]**

Tentative Ruling:

Party Information

Debtor(s):

Jose Luis Almendariz

Represented By
Glenn Ward Calsada

Defendant(s):

Jose Luis Almendariz

Represented By
Glenn Ward Calsada

Plaintiff(s):

Brian McLees

Represented By
Dawn M Coulson

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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11:00 AM

2:18-22904 Sasha Demovsky-Kapustyan

Chapter 13

Adv#: 2:20-01666 Demovsky-Kapustyan v. Vayntrub et al

#8.00 Cont'd hrg re: Motion for Default Judgment
fr. 6/29/21

Docket 28

Tentative Ruling:

Tentative Ruling for 8/17/21:

Please see the tentative ruling for the status conference (Calendar No. 9, 8/17/21 at 11:00 a.m.).

Tentative Ruling for 6/29/21:

Appearances required. The tentative ruling is to continue this hearing to **8/17/21 at 11:00 a.m.** and meanwhile (1) set a **deadline of 7/9/21** for the parties to lodge proposed order(s) on the Local Form directing them to mandatory mediation, (2) set a **deadline of 7/23/21** for defendant Los Angeles Farmers, Inc. ("Defendant"), if the parties have not resolved their differences by then, to file and serve a motion to vacate the default, to be heard at the continued hearing. (Presumably such a motion for relief from default would be substantially identical in substance to the opposition papers, but it would be properly filed and served as a separate motion, although Defendant is free to file and serve any other form of such a motion.) All of the foregoing is subject to the parties lodging any stipulated order for further continuances, in view of the relatively short time to arrange for and complete mediation before the deadline to file and serve any motion for relief from default.

Key documents reviewed (in addition to motion papers): Defendant's belated opposition (dkt. 30). As of the preparation of this tentative ruling no reply is on file.

Analysis

Defendant's opposition to entry of a default judgment requests that this Court set aside entry of default (see dkt. 30). The tentative ruling is that, on the one hand, this request for relief is procedurally improper and must be

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CONT... **Sasha Demovsky-Kapustyan**

Chapter 13

brought via a separate motion, and the opposition has been filed very late; but, on the other hand, a continuance appears to be appropriate based on the allegations in the opposition, including that Defendant never received the funds at issue (which, apparently, were paid to the Vayntrubs instead); Defendant is no longer associated with the Vayntrubs; and the other reasons set forth in the opposition papers. *See Horton v. Sierra Conservation Ctr.* 2010 U.S. Dist. LEXIS 18241, at *2, 2010 WL 743849, at *1 (E.D. Cal. Mar. 2010) ("[e]ntry of default against a defendant cuts off that defendant's right to appear in the action or to present evidence" unless or until the entry of default has been set aside) (citing *Clifton v. Tomb*, 21 F.2d 893, 897 (4th Cir. 1927)).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Sasha Demovsky-Kapustyan

Represented By
Richard T Baum

Defendant(s):

David Vayntrub

Represented By
Charles Shamash
Joseph E. Caceres

Irena Vayntrub

Represented By
Charles Shamash
Joseph E. Caceres

**United States Bankruptcy Court
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CONT... **Sasha Demovsky-Kapustyan**
Absolute Herbal Pain Solutions, Inc.

Represented By
Charles Shamash

Chapter 13

Los Angeles Farmers, Inc.

Pro Se

Plaintiff(s):

Sasha Demovsky-Kapustyan

Represented By
Richard T Baum

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Tuesday, August 17, 2021

Hearing Room 1545

11:00 AM

2:18-22904 Sasha Demovsky-Kapustyan

Chapter 13

Adv#: 2:20-01666 Demovsky-Kapustyan v. Vayntrub et al

#9.00 Cont'd Status Conference re: Complaint for Turnover of Property of the Estate, Unjust Enrichment fr. 1/26/21, 3/2/21, 5/11/21, 07/20/21

Docket 1

Tentative Ruling:

Tentative Ruling for 8/17/21:

Continue all matters to 9/14/21 at 11:00 a.m. in view of the parties' representation that settlement negotiations are ongoing (adv. dkt. 40). Appearances are not required on 8/17/21.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone.** You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 7/20/21:

Continue to 8/17/21 at 11:00 a.m., concurrent with other matters, in view of this Court's order assigning this proceeding to mediation (adv. dkt. 34). Appearances are not required on 7/20/21.

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11:00 AM

CONT... Sasha Demovsky-Kapustyan

Chapter 13

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone**. You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 5/11/21:

Continue as set forth below. Appearances are not required on 5/11/21.

(A) Current issues

This Court has reviewed the parties' joint status report (adv. dkt. 25) and the other filed documents and records in this adversary proceeding.

(1) Motion for default judgment against Los Angeles Farmers, Inc.

The tentative ruling is to set a **deadline of 6/29/21** for Plaintiff to file a motion for default judgment against Los Angeles Farmers, Inc., with a hearing concurrent with the continued status conference. The Vayntrub Defendants do not need to appear at the continued status conference and this Court anticipates thereafter setting a further continued status conference for 9/28/21 at 11:00 a.m.

(B) Standard requirements

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status

**United States Bankruptcy Court
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Tuesday, August 17, 2021

Hearing Room 1545

11:00 AM

CONT... Sasha Demovsky-Kapustyan
conference.

Chapter 13

(1) Venue/jurisdiction/authority

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (see adv. dkt. 10 & 25, and at the hearing on 1/26/21).

(2) Mediation [Intentionally omitted].

(3) Deadlines

This adversary proceeding has been pending since 11/16/20.

Joinder of parties/amendment of pleadings-deadline: N/A

Discovery cutoff (for completion of discovery): N/A

Expert(s) - deadline for reports: N/A

Expert(s) - discovery cutoff (if different from above): N/A

Dispositive motions to be heard no later than: N/A

Joint Status Report: No status report required

Continued status conference: 7/20/21 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: N/A

Pretrial conference: N/A

Deliver trial exhibits to other parties and chambers, including direct testimony by declaration unless excused: N/A

Trial commencement: N/A

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

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Tuesday, August 17, 2021

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11:00 AM

CONT... Sasha Demovsky-Kapustyan

Chapter 13

Party Information

Debtor(s):

Sasha Demovsky-Kapustyan

Represented By
Richard T Baum

Defendant(s):

David Vayntrub

Represented By
Charles Shamash
Joseph E. Caceres

Irena Vayntrub

Represented By
Charles Shamash
Joseph E. Caceres

Absolute Herbal Pain Solutions, Inc.

Represented By
Charles Shamash

Plaintiff(s):

Sasha Demovsky-Kapustyan

Represented By
Richard T Baum

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Hearing Room 1545

1:00 PM

2:20-15954 John Martin Kennedy

Chapter 11

#1.00 Hrg re: Accountant's 2nd and Final Application for
Approval of Compensation and Reimbursement of
Costs

Docket 384

Tentative Ruling:

Please see the tentative ruling for the post-confirmation status conference
(Calendar No. 3, 8/17/21 at 1:00 p.m.).

Party Information

Debtor(s):

John Martin Kennedy

Represented By
Sandford L. Frey
Dennette A Mulvaney

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1575 Calendar**

Tuesday, August 17, 2021

Hearing Room 1575

1:00 PM

2:20-15954 John Martin Kennedy

Chapter 11

#2.00 Cont'd hrg re: Objection to Claim Number 2 Filed by Yunuen Campos; and Motion to (1) Determine the Amount of the Claim of Yunuen Campos Pursuant to Bankruptcy Code § 506(a) and FRBP 3012, or (2) in the Alternative Motion to Estimate the Claim of Yunuen Campos fr. 3/23/21, 4/27/21, 5/4/21, 6/15/21

Docket 257

Tentative Ruling:

Tentative Ruling for 8/17/21:

Please see the tentative ruling for the post-confirmation status conference (Calendar No. 3, 8/17/21 at 1:00 p.m.).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

John Martin Kennedy

Represented By

Sandford L. Frey

Dennette A Mulvaney

Movant(s):

John Martin Kennedy

Represented By

Sandford L. Frey

Dennette A Mulvaney

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Los Angeles
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Hearing Room 1545

1:00 PM

2:20-15954 John Martin Kennedy

Chapter 11

#3.00 Cont'd status conference re: Post confirmation
fr. 7/14/20, 7/28/20, 8/18/20, 9/15/20, 9/29/20,
10/27/20, 11/10/20, 12/1/20, 12/8/20, 12/22/20,
01/26/21, 3/23/21, 4/6/21, 4/27/21, 5/4/21, 6/15/21,
8/3/21

Docket 1

Tentative Ruling:

Tentative Ruling for 8/17/21:

Continue as set forth below. Appearances are not required on 8/17/21.

(1) Current issues

(a) Final fee application (dkt. 384, 385, 386) of SLBiggs ("Applicant"),
no opposition on file

The tentative ruling is to approve Applicant's request for second interim fees of \$35,893 and costs of \$76.45, and approve previously awarded fees and costs on a final basis, for a total fee award of \$51,588.21 (\$51,336.50 fees + \$251.71 costs).

Proposed order: Applicant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(b) Debtor's objection to Claim 2 filed by Yunuen Campos (dkt. 257),
Ms. Campos' opposition (dkt. 261), Debtor's reply (dkt. 266), Interim Claim
Order (dkt. 277), NOA (dkt. 301)

The tentative ruling is to continue this matter concurrent with the continued post-confirmation status conference in view of the parties' Standstill Stipulation/Order (dkt. 388, 389).

(2) Deadlines/dates

This case was filed on 6/30/20, and Debtor's plan was confirmed on 4/27/21 (dkt. 352). The tentative ruling is to set a further continued Post-Confirmation Status Conference for 9/28/21 at 1:00 p.m. *Brief* post-confirmation status report due 9/21/21.

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1:00 PM

CONT... John Martin Kennedy

Chapter 11

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

John Martin Kennedy

Represented By
Sandford L. Frey
Dennette A Mulvaney

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, August 17, 2021

Hearing Room 1545

1:00 PM

2:20-11333 Edmund Lincoln Anderson

Chapter 11

#4.00 Hrg re: Motion to Dismiss or Convert Case

Docket 396

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 8, 8/17/21 at 1:00 p.m.).

Party Information

Debtor(s):

Edmund Lincoln Anderson

Represented By
Stella A Havkin

Trustee(s):

John P Pringle (TR)

Represented By
Toan B Chung

**United States Bankruptcy Court
Central District of California
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Hearing Room 1545

1:00 PM

2:20-11333 Edmund Lincoln Anderson

Chapter 11

#5.00 Hrg re: Motion for Order Converting Case to Chapter 7

Docket 397

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 8, 8/17/21 at 1:00 p.m.).

Party Information

Debtor(s):

Edmund Lincoln Anderson

Represented By
Stella A Havkin

Trustee(s):

John P Pringle (TR)

Represented By
Toan B Chung

**United States Bankruptcy Court
Central District of California
Los Angeles
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Courtroom 1545 Calendar**

Tuesday, August 17, 2021

Hearing Room 1545

1:00 PM

2:20-11333 Edmund Lincoln Anderson

Chapter 11

#6.00 Cont'd hrg re: Third Default on Stipulation for use of
Cash Collateral and Adequate Protection
(Internal Revenue Service)
fr. 3/23/21, 4/27/21, 5/11/21, 6/1/21, 6/15/21

Docket 315

Tentative Ruling:

Tentative Ruling for 8/17/21:

Please see the tentative ruling for the status conference (Calendar No. 8,
8/17/21 at 1:00 p.m.).

Tentative Ruling for 6/15/21:

Please see the tentative ruling for the status conference (Calendar No. 18,
6/15/21 at 1:00 p.m.).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Edmund Lincoln Anderson

Represented By
Stella A Havkin

**United States Bankruptcy Court
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1:00 PM

2:20-11333 Edmund Lincoln Anderson

Chapter 11

#7.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 4/27/21, 5/11/21, 6/1/21, 6/15/21

US BANK TRUST NA
vs
DEBTOR

Docket 339

Tentative Ruling:

Tentative Ruling for 8/17/21:

Please see the tentative ruling for the status conference (Calendar No. 8, 8/17/21 at 1:00 p.m.).

Tentative Ruling for 6/15/21:

Please see the tentative ruling for the status conference (Calendar No. 18, 6/15/21 at 1:00 p.m.).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Edmund Lincoln Anderson

Represented By
Stella A Havkin

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, August 17, 2021

Hearing Room 1545

1:00 PM

2:20-11333 Edmund Lincoln Anderson

Chapter 11

#8.00 Cont'd Status Conference re: Chapter 11 Case
fr. 3/3/20, 3/10/20, 4/7/20, 4/21/20, 6/2/20, 7/14/20,
7/28/20, 8/18/20, 9/1/20, 10/6/20, 10/27/20, 12/1/20,
1/5/21, 2/9/21, 03/02/21, 3/23/21, 4/27/21, 5/11/21,
6/1/21, 6/15/21

Docket 1

Tentative Ruling:

Tentative Ruling for 8/17/21:

Grant relief as set forth below, and continue as set forth below. Appearances are not required on 8/17/21.

(1) Current issues

(a) Motion to Dismiss or Convert, filed by the United States of America, on Behalf of its Agency the Internal Revenue Service ("IRS") (dkt. 396); Opposition of Debtor (dkt. 407); IRS's Reply (dkt. 413)

Grant insofar as conversion, because failure to pay taxes "timely" is cause for relief, and such cause is reinforced by the matters described below. Conversion, rather than dismissal, appears to be in the the best interest of the bankruptcy estate (see below).

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1) (B).

(b) Motion to Convert Case to Chapter 7, filed by John P. Pringle, Chapter 11 Trustee ("Chapter 11 Trustee") (dkt. 397); Opposition of Debtor (dkt. 408); Chapter 11 Trustee's Reply (dkt.412)

Grant. On the one hand, it is difficult to predict in advance whether the statutory fees of a chapter 7 trustee would be greater or less than the administrative expenses in chapter 11; and on the present record any alleged failure to maintain insurance for any period of time appears to be a disputed factual issue that cannot be resolved without additional evidence.

On the other hand, Debtor's violation of his duties in chapter 11, including his non-disclosure of unauthorized postpetition borrowing and his

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1:00 PM

CONT... Edmund Lincoln Anderson

Chapter 11

failure to segregate cash from various sources (in violation of this Court's orders regarding the use of cash collateral), establish "cause" for conversion (or dismissal) under 11 U.S.C. 1112(b). Those things also make it very unlikely that Debtor will be able to propose any chapter 11 plan that would be accepted by creditors or "crammed down" by this Court, because even a liquidating plan would have to rely on Debtor's trustworthiness, or alternatively would have to provide for a liquidating agent. Appointing a chapter 7 trustee appears to be the most efficient and appropriate means of liquidating the estate. In addition, beyond an expenses that would have to be borne by the bankruptcy estate, any attempt by Debtor to pursue a liquidating plan or other relief will force other parties to spend time and money for which they are very unlikely to be compensated. In addition, one of the principal unsecured creditors, the IRS, supports conversion (if this case is not dismissed). For all of these reasons, conversion appears to be both appropriate and in the best interests of creditors and the estate within the meaning of 11 U.S.C. 1112(b) (1) and (b)(4)(A), (B), (D), (E), (F) and (I).

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date and attach a copy of this tentative ruling, thereby adopting it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b) (1)(B).

(c) Cash collateral: declaration re 3d default under stipulation with IRS (the "Default Decl.," dkt.315), Debtor's response (dkt.317), order setting hearing (dkt.318)

The tentative ruling is that conversion of this case to chapter 7, and the ongoing efforts by the chapter 11/chapter 7 trustees to sell the properties of the estate and pay the IRS and other creditors, are sufficient and appropriate relief. Accordingly, the tentative ruling is to maintain the automatic stay conditioned on ongoing and sufficient progress in selling the properties, and deny any further relief on the present record (without prejudice to seeking any additional relief in future). The tentative ruling is not to continue this matter any further.

Proposed order: The IRS is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1) (B).

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CONT...

Edmund Lincoln Anderson

Chapter 11

(d) Declaration of Default and request for relief from automatic stay, filed by U.S. Bank Trust NA as Trustee of the Tiki Series III Trust ("US Bank") (dkt. 339), Debtor's Opposition (dkt. 342), order setting hearing (dkt. 343)

The tentative ruling is that conversion of this case to chapter 7, and the ongoing efforts by the chapter 11/chapter 7 trustees to sell the properties of the estate and pay US Bank and other creditors, are sufficient and appropriate relief. Accordingly, the tentative ruling is to maintain the automatic stay conditioned on ongoing and sufficient progress in selling the properties, and deny any further relief on the present record (without prejudice to seeking any additional relief in future). The tentative ruling is not to continue this matter any further.

Proposed order: US Bank is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1) (B).

(2) Deadlines/dates. This case was filed on 2/6/20.

(a) Bar date: 5/1/20 (dkt. 50; timely served, dkt. 55).

(b) Procedures order: dkt. 7 (timely served, dkt.8)

(c) Plan/Disclosure Statement (dkt. 251, 250)*: N/A.

(d) Continued status conference: 8/31/21 at 1:00 p.m., concurrent with other matters. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone**. You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see

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CONT... Edmund Lincoln Anderson Chapter 11

the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Edmund Lincoln Anderson

Represented By
Stella A Havkin

**United States Bankruptcy Court
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Los Angeles
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Tuesday, August 17, 2021

Hearing Room 1545

1:00 PM

2:19-11809 Schaefer Ambulance Service, Inc and Logan Deaton

Chapter 11

#9.00 Cont'd Status Conference re: Post Confirmation
fr. 02/28/19, 03/12/19, 03/26/19, 04/09/19, 5/21/19,
05/21/19, 06/04/19, 6/18/19, 7/30/19; 08/06/19,
8/20/19, 9/24/19, 10/15/19, 11/5/19, 12/10/19, 12/17/19,
1/14/20, 1/28/20, 02/18/20, 3/10/20, 03/31/20, 4/21/20,
5/2/20, 7/28/20, 9/29/20, 11/10/20, 2/9/21, 5/11/21,
6/1/21, 7/20/21

Docket 1

Tentative Ruling:

Tentative Ruling for 8/17/21:

Continue as set forth below. Appearances are not required on 8/17/21.

(1) Current issues

This Court is not aware of any issues that need to be addressed at this time.

(2) Deadlines/dates

This case was filed on 2/20/19, and Debtor's plan was confirmed on 5/15/20 (dkt. 630). The tentative ruling is to set a continued post-confirmation status conference for 11/9/21 at 1:00 p.m., with a *brief* status report due 10/26/21.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone.** You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless

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CONT... Schaefer Ambulance Service, Inc and Logan Deaton Chapter 11

otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Schaefer Ambulance Service, Inc

Represented By
Craig G Margulies
Monserrat Morales

**United States Bankruptcy Court
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Los Angeles
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Tuesday, August 17, 2021

Hearing Room 1545

1:00 PM

2:19-18316 Ashley Susan Aarons

Chapter 11

#10.00 Cont'd Status Conference re: Post confirmation
fr. 8/20/19, 9/24/19, 10/4/19, 10/15/19, 10/29/19,
11/12/19, 12/10/19, 1/14/20, 03/31/20, 4/7/20,
4/21/20, 5/5/20, 6/16/20, 6/30/20, 8/4/20, 9/29/20,
10/14/20, 10/22/20, 11/12/20, 12/8/20, 12/22/20,
1/5/21, 1/26/21, 2/4/21, 2/11/21, 4/27/21, 5/4/21

Docket 1

Tentative Ruling:

Tentative Ruling for 8/17/21:
Appearances required.

(1) Current issues

(a) Disputes with several creditors

This Court has reviewed Debtor's post-confirmation reports (dkt. 431, 432), the responses filed by (i) administrative claimant Michael R. Totaro/Totaro & Shanahan ("Totaro") (dkt. 436) and (ii) Verus Securitization Trust 2020-NPL1, as successor in interest to Invictus Residential Pooler Trust 3A, and Patch of Land Lending, Inc. (collectively, "Verus/Patch") (dkt. 435), and Debtor's (unsigned) reply declaration (dkt. 438). There is no tentative ruling, but the parties are directed to address whether this Court should set a briefing schedule on any of their disputes that properly can be presented to this Court, or whether this Court should simply continue this status conference, or set any other procedures at this time.

(2) Deadlines/dates

This case was filed on 7/17/19, and Debtor's plan was confirmed on 2/11/21 (dkt. 390). The tentative ruling is to set a further continued Post-Confirmation Status Conference for 9/28/21 at 1:00 p.m. *Brief* post-confirmation status report due 9/14/21.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at

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CONT... Ashley Susan Aarons

Chapter 11

www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Ashley Susan Aarons

Represented By
James C Bastian Jr
Rika Kido

Trustee(s):

John-Patrick McGinnis Fritz (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 1545

1:00 PM

2:21-11720 Jose Angel Rosales

Chapter 11

#11.00 Cont'd hrg re: Motion in Individual Ch 11 Case for Order Employing Professional (LBR 2014-1): Mark Brifman/Brifman Law Corp. as Special Litigation Counsel fr. 6/15/21, 7/20/21

Docket 45

Tentative Ruling:

Tentative Ruling for 8/17/21:

Please see the tentative ruling for the status conference (Calendar No. 12, 8/17/21 at 1:00 p.m.).

Tentative Ruling for 7/20/21:

Please see the tentative ruling for the status conference (Calendar No. 14, 7/20/21 at 1:00 p.m.).

Tentative Ruling for 6/15/21:

Please see the tentative ruling for the status conference (Calendar No. 4, 6/15/21 at 1:00 p.m.).

Party Information

Debtor(s):

Jose Angel Rosales

Represented By
Nancy Korompis

Movant(s):

Jose Angel Rosales

Represented By
Nancy Korompis
Nancy Korompis
Nancy Korompis
Nancy Korompis
Nancy Korompis
Nancy Korompis

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Tuesday, August 17, 2021

Hearing Room 1545

1:00 PM

2:21-11720 Jose Angel Rosales

Chapter 11

#12.00 Cont'd Status Conference re: Chapter 11 Case
fr. 03/23/21, 3/31/21, 4/27/21, 5/11/21, 6/15/21,
6/29/21, 7/20/21

Docket 1

Tentative Ruling:

Tentative Ruling for 8/17/21:

Appearances required.

(1) Current issues

(a) Debtor's apparent inability to proceed in chapter 11

On 6/30/21 this Court entered an order granting junior lienholder NDF1, LLC's motion for relief from stay (dkt. 86). Based, in part, on that order (and for the additional reasons set forth in the tentative ruling for 7/20/21 (copied below)), this Court was prepared to dismiss this case on 7/20/21 but was persuaded to continue to the matter to this date based on the representations of an appearance attorney that Debtor was engaging in negotiations with NFD1, LLC to delay any foreclosure sale. There is no tentative ruling, but Debtor should be prepared to provide an update on the status of those negotiations and address why this Court should not dismiss this case for the reasons stated in the 7/20/21 tentative ruling and for failure to file monthly operating reports (see below).

(b) Debtor's Application to employ special litigation counsel (dkt. 45, "Employment Application"), Order setting hearing on Employment Application (dkt. 67), Notice of hearing (dkt. 71), late Response and Application for relief from deadline (dkt. 76, 77)

The tentative ruling is to deny the Employment Application, even if this bankruptcy case is not dismissed, for the reasons stated in the Tentative Ruling for 6/15/21 (reproduced below).

Proposed order: Debtor is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)

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Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, August 17, 2021

Hearing Room 1545

1:00 PM

CONT...

Jose Angel Rosales
(1)(B).

Chapter 11

(c) Monthly Operating Reports ("MOR")

As of the preparation of this tentative ruling, Debtor has not filed his June or July MORs. The tentative ruling is that this provides an additional ground to dismiss this case.

(2) Dates/procedures. This case was filed on 3/3/21.

(a) Bar date: 6/16/21 (dkt. 35; timely served, dkt. 44)

(b) Procedures order: dkt.14 (timely served, dkt. 21, amended by dkt. 22)

(c) Plan/Disclosure Statement: N/A.

(d) Continued status conference: *If* this case is not dismissed, continue to 9/14/21 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone**. You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 7/20/21:
Appearances required.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, August 17, 2021

Hearing Room 1545

1:00 PM

CONT... **Jose Angel Rosales**

Chapter 11

(1) Current issues

(a) Debtor's apparent inability to proceed in chapter 11

In view of this Court's order granting junior lienholder NDF1, LLC's motion for relief from stay (dkt. 86) and based on this Court's review of Debtor's status report (dkt. 90), the tentative ruling is to dismiss this case without further notice, based on this Court's procedures order issued at the inception of this case. See dkt.14 (timely served, dkt. 21, amended by dkt. 22). The grounds for dismissal, under 11 U.S.C. 1112, are as follows.

It appears that Debtor is unable to propose a feasible plan or other path forward. Specifically, Debtor has not provided any math to show that he can afford to pay the roughly \$5,077.54 in proposed plan payments (dkt. 90, pp.9-12), plus living expenses (dkt. 12, pdf pp.25-26), nor does it appear that he could do so, given that his average monthly income for March, April & May 2021 was roughly \$6,080 (see dkt. 55, 75 & 84) and Debtor states that his income will be lower every November-January (dkt. 90, p.4:22-27).

Alternatively, if Debtor seeks to oppose dismissal, the tentative ruling is to continue the status conference as set forth below (see Section (2)(d)) with a **deadline of 7/27/21** for Debtor to file and serve on all creditors (i) a copy of this tentative ruling and (ii) supplemental papers addressing the issues set forth above.

(b) Debtor's Application to employ special litigation counsel (dkt. 45, "Employment Application"), Order setting hearing on Employment Application (dkt. 67), Notice of hearing (dkt. 71), late Response and Application for relief from deadline (dkt. 76, 77)

For the reasons set forth above, the tentative ruling is to deny the Employment Application without prejudice.

Proposed order: Debtor is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b) (1)(B).

(c) Monthly Operating Reports ("MOR")

As of the preparation of this tentative ruling, Debtor has not filed his June MOR. The tentative ruling is that this provides an additional ground to dismiss this case.

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Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, August 17, 2021

Hearing Room 1545

1:00 PM

CONT... Jose Angel Rosales

Chapter 11

- (2) Dates/procedures. This case was filed on 3/3/21.
- (a) Bar date: 6/16/21 (dkt. 35; timely served, dkt. 44)
 - (b) Procedures order: dkt.14 (timely served, dkt. 21, amended by dkt. 22)
 - (c) Plan/Disclosure Statement: N/A.
 - (d) Continued status conference: *If* this case is not dismissed, continue to 8/17/21 at 1:00 p.m. No written status report required.
- *Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone**. You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 6/29/21:
Appearances required.

- (1) Current issues
- (a) NDF1, LLC's motion for relief from stay (dkt. 73), Debtor's opposition (dkt. 78), no reply is on file

There is no tentative ruling, but the parties should be prepared to address whether they will agree to the terms of an adequate protection order (see Debtor's opposition, dkt. 78).

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, August 17, 2021

Hearing Room 1545

1:00 PM

CONT... **Jose Angel Rosales**

Chapter 11

(b) Monthly Operating Reports ("MOR")

As of the preparation of this tentative ruling, Debtor has not filed his May MOR. Why not?

(2) Dates/procedures. This case was filed on 3/3/21.

(a) Bar date: 6/16/21 (dkt. 35; timely served, dkt. 44)

(b) Procedures order: dkt.14 (timely served, dkt. 21, amended by dkt. 22)

(c) Plan/Disclosure Statement: 7/6/21 or 9/3/21 (See dkt. 79). See the **revised** "Procedures of Judge Bason" (available at www.cacb.uscourts.gov) (search for "Chapter 11: Plan").

(d) Continued status conference: 7/20/21 at 1:00 p.m., concurrent with other matters. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 6/15/21:

Continue as set forth below. Appearances are not required on 6/15/21.

(1) Current issues

(A) Debtor's Application to employ special litigation counsel (dkt. 45, "Employment Application"), Order setting hearing on Employment Application (dkt. 67), Notice of hearing (dkt. 71), late Response and Application for relief

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, August 17, 2021

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1:00 PM

CONT... **Jose Angel Rosales**
from deadline (dkt. 76, 77)

Chapter 11

Debtor's very belated response (dkt. 76) refers vaguely to "conflicting trial, vacation/holiday and travel schedules" that "delayed" the ability of Debtor's general bankruptcy counsel and proposed special counsel filing the response due 6/1/21 until the night of 6/11/21. Dkt.77, p.5:18-24. That is too vague an excuse, and counsel for Debtor is cautioned that in future she must request any extension *before* the deadline has expired, or alternatively provide an *adequate* excuse for being unable to do so.

Nevertheless, the tentative ruling is to excuse Debtor's non-compliance with this Court' prior deadline and provide Debtor with an opportunity to address the following issues. As this Court understands Debtor's position, he alleges that he entered into a modification of the first deed of trust ("DOT") on his home based on his understanding that the second DOT (a HELOC) had been canceled or otherwise forgiven, and Debtor paid the first DOT for "ten years" in reliance on the absence of the second DOT, but instead the HELOC turns out to be a "zombie" loan. See dkt. 29, p.2, and dkt.76, p.3:10-21. While Debtor was paying the first DOT, the second DOT obligation of "approximately \$150,000 grew to nearly \$300,000." *Id.*

Debtor now proposes to spend up to an estimated \$40,000 to attempt to obtain cancellation of some or all of the debt secured by the second DOT. *Id.* On the one hand, that appears to be admirably efficient for this type of litigation, and if the litigation is successful then it could generate a substantial net benefit for Debtor.

On the other hand, creditors appear to be the losers in this scenario. Debtor proposes to spend up to \$40,000 or more to litigate undisclosed legal theories that might have zero or minimal chance of success; and even if Debtor succeeds he will gain equity in his home that, presumably, he will seek to exempt. If Debtor's cash flow is used to fund this litigation, it appears that he will have little if anything left over to pay creditors (although it is unclear whether Debtor can obtain more monthly income by increasing his "draw" from his business). See bankruptcy schedules "I" & "J" (dkt.12, pp.23-26, and dkt.46, pp.2-4).

A review of the dollars at issue will illustrate. Debtor's amended bankruptcy schedule "D" lists the value of the home as \$750,000 encumbered by a first DOT of \$420,000 and a second DOT of \$305,000. See dkt.12 at PDF pp.15-16, items 2.3 & 2.4. If, for example, Debtor spends \$40,000 and obtains exempt equity of \$150,000, then creditors will have lost out of

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CONT... Jose Angel Rosales

Chapter 11

\$40,000 and will gain nothing in return.

It is possible that Debtor will propose a chapter 11 plan that adequately discloses the cost/benefit analysis and would share some of the net benefits of any success, or that would otherwise be a suitable use of the bankruptcy system. Such a plan could include full disclosure of the legal theories underlying Debtor's proposed litigation, so that creditors could make their own assessment of the cost/benefit of Debtor's proposed course of action, and if they vote in favor of continuing Debtor's litigation then presumably the plan could be confirmed. Otherwise, Debtor might have to pursue other alternative.

Based on all of the foregoing, the tentative ruling is to continue the hearing on the motion to employ special counsel to 7/20/21 at 1:00 p.m. with a **deadline of 7/6/21** for Debtor either to file (and NOT serve on anyone except the United States Trustee and anyone requesting special notice) a chapter 11 plan and disclosure statement that explains why the proposed litigation is a good idea for creditors to vote for, or alternatively for Debtor to file (and serve on the same persons) a brief and supporting declaration(s) addressing the issues set forth above (in which event the deadline to file a draft plan and disclosure statement would remain at 9/3/21, as previously set by this Court).

(2) Dates/procedures. This case was filed on 3/3/21.

(a) Bar date: 6/16/21 (dkt. 35; timely served, dkt. 44)

(b) Procedures order: dkt.14 (timely served, dkt. 21, amended by dkt. 22)

(c) Plan/Disclosure Statement: see above. See the **revised** "Procedures of Judge Bason" (available at www.cacb.uscourts.gov) (search for "Chapter 11: Plan").

(d) Continued status conference: 6/29/21 at 1:00 p.m., concurrent with other matters. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

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CONT...

Jose Angel Rosales

Chapter 11

are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Jose Angel Rosales

Represented By
Nancy Korompis

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, August 17, 2021

Hearing Room 1545

1:00 PM

2:21-12517 Law Offices of Brian D. Witzer

Chapter 11

Adv#: 2:21-01084 Law Offices of Brian D. Witzer, Inc. v. Pravati Credit Fund III, LLP

- #13.00** Cont'd Status Conference re: Complaint for (1) Injunctive Relief (11 U.S.C. Section 105(a)); (2) For Violation of the Automatic Stay (11 U.S.C. Section 362(a)); (3) Avoidance of Preference [11 U.S.C. Section 547]; (4) Recovery of Avoided Transfer [11 U.S.C. Section 550(a)]; and (5) Automatic Preservation of Avoided Transfer [11 U.S.C. Section 551] fr. 7/6/21

Docket 2

Tentative Ruling:

Tentative Ruling for 8/17/21:

Please see the tentative ruling for the Status Conference in this bankruptcy case (Calendar No. 14, 8/17/21 at 1:00 p.m.).

Tentative Ruling for 7/6/21:

Appearances required.

(A) Current Issues

(1) Motion to Dismiss ("MTD") filed by Defendant Pravati Credit Fund III, LLP ("Pravati") (adv. dkt. 6), Pravati's Request for Judicial Notice (adv. dkt. 7), Plaintiff/Debtor's Opposition (adv. dkt. 10), Pravati's Reply (adv. dkt. 11)

Please see the tentative ruling for the Status Conference in this bankruptcy case (Calendar No. 8, 7/6/21 at 2:00 p.m.).

(B) Standard requirements

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority

The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this Bankruptcy Court's authority to enter final

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CONT... Law Offices of Brian D. Witzer

Chapter 11

orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. See generally *Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). See generally *In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation

Is there is any reason why this Court should not order the parties to mediation before one of the volunteer mediators (*not* a Bankruptcy Judge), and meanwhile set the deadlines set forth below? The tentative ruling is to set a **deadline of 7/20/21** for the parties to lodge a proposed mediation order (the parties are directed to use the time between now and that deadline to find a mutually agreeable mediator whose schedule can accommodate the needs of this matter; and if the parties cannot even agree on a mediator they may lodge separate orders and Judge Bason will chose among them, or issue his own order).

(3) Deadlines

This adversary proceeding has been pending since 5/10/21. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Joinder of parties/amendment of pleadings-deadline: TBD

Discovery cutoff (for completion of discovery): TBD

Expert(s) - deadline for reports: TBD

Expert(s) - discovery cutoff (if different from above): TBD

Dispositive motions to be heard no later than: TBD

Joint Status Report: 8/3/21.

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1:00 PM

CONT...

Law Offices of Brian D. Witzer

Chapter 11

Continued status conference: 8/17/21 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers, including direct testimony by declaration unless excused: TBD(for the format of exhibits and other trial procedures, please see the Procedures of Judge Bason (posted at www.cacb.uscourts.gov) then search for "Trial Practice" BUT, at least during the COVID-19 shut down of the courtroom, also see the forms of order regarding video trials, posted on Judge Bason's portion of the Court's above-referenced web page)

Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Law Offices of Brian D. Witzer

Represented By
Michael Jay Berger

Defendant(s):

Pravati Credit Fund III, LLP

Pro Se

Plaintiff(s):

Law Offices of Brian D. Witzer, Inc.

Represented By
Michael Jay Berger

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, August 17, 2021

Hearing Room 1545

1:00 PM

2:21-12517 Law Offices of Brian D. Witzer

Chapter 11

#14.00 Cont'd Status Conference re: Chapter 11 Case
fr. 3/31/21, 4/27/21, 5/11/21, 6/15/21, 6/29/21,
7/6/21, 07/20/21, 07/22/21

Docket 1

Tentative Ruling:

Tentative Ruling for 8/17/21:

Appearances required.

(1) Current issues

(a) Mediation, and pending disputes

This Court has directed the parties to mediation and issued an order (dkt. 161) staying all matters in this bankruptcy case and the associated adversary proceeding (2:21-ap-01084-NB) pending mediation. There is no tentative ruling, but the parties should be prepared to address what progress they have made toward completing the mediation and, if that mediation has not been successful, what deadlines, if any, this Court should set for filing briefs and other documents to move this case forward.

(b) Monthly Operating Reports ("MORs")

Debtor's latest MOR (dkt. 162, for month ending 6/30/21) shows continuing losses, and less than \$40,000 of cash at the end of the month. How will Debtor continue to finance its operations?

(2) Dates/procedures. This case was filed on 3/29/21.

(a) Bar date: 7/6/21.

(b) Procedures order: dkt. 4 (service cured, see dkt. 8, 82)

(c) Plan/Disclosure Statement: TBD

(d) Continued status conference: 9/14/21 at 1:00 p.m., concurrent with other matters. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances

**United States Bankruptcy Court
Central District of California
Los Angeles
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Courtroom 1545 Calendar**

Tuesday, August 17, 2021

Hearing Room 1545

1:00 PM

CONT... Law Offices of Brian D. Witzer

Chapter 11

required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone**. You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Law Offices of Brian D. Witzer

Represented By
Michael Jay Berger

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Wednesday, August 18, 2021

Hearing Room 1545

8:00 AM

2:00-00000

Chapter

- #1.00** Hearings in Judge Bason's courtroom (1545) are now **simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone.** You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. ZoomGov appearances are free.

ZoomGov Instructions for all matters on today's calendar:

Meeting ID: 160 985 6835

Password: 556189

Meeting URL: <https://cacb.zoomgov.com/j/1609856835>

Telephone: +1 669 254 5252 or +1 646 828 7666 or 833 568 8864 (Toll Free)

Please connect at least 5 minutes before the start of your hearing, and wait with your microphone muted until your matter is called.

CHAPTER 13: Persons needing to contact the Chapter 13 Trustee's attorney, either prior to the hearing or during a recess, can call Kaleen Murphy, Esq. at (213) 996-4433.

Docket 0

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Wednesday, August 18, 2021

Hearing Room 1545

9:00 AM

2:18-12429 Dana Hollister

Chapter 11

#1.00 Hrg re: Motion for order determining
value of collateral

Docket 1430

Party Information

Debtor(s):

Dana Hollister

Represented By
David A Tilem
Mark A Kressel
Alan M Insul

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Wednesday, August 18, 2021

Hearing Room 1545

9:00 AM

2:18-12429 Dana Hollister

Chapter 11

#2.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 10/1/19, 11/12/19, 11/21/19, 01/14/20, 03/03/20,
04/07/20, 5/19/20, 7/14/20, 7/28/20, 8/4/20, 9/15/20,
10/27/20, 01/26/21, 4/27/21, 6/1/21, 7/8/21

BOBS, LLC
vs
DEBTOR

Docket 936

Party Information

Debtor(s):

Dana Hollister

Represented By
David A Tilem
Mark A Kressel
Alan M Insul

Movant(s):

Bobs, LLC

Represented By
David I Brownstein
Gerrick Warrington

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Wednesday, August 18, 2021

Hearing Room 1545

9:00 AM

2:18-12429 Dana Hollister

Chapter 11

#3.00 Cont'd Status Conference re: Chapter 11 Case
fr. 3/9/18, 3/20/18, 3/21/18, 4/17/18, 5/3/18, 5/7/18,
6/12/18, 6/22/18, 7/16/18, 8/3/18, 9/4/18, 11/6/18,
01/15/19, 1/29/19, 2/26/19, 3/26/19, 4/16/19;
04/29/19, 05/21/19, 5/28/19, 6/18/19, 7/2/19; 08/06/19,
10/15/19, 11/12/19, 11/21/19, 01/14/20, 3/3/20, 3/10/20,
04/07/20, 5/19/20, 6/16/20, 6/30/20, 7/14/20, 7/28/20,
8/4/20, 09/15/20, 10/27/20, 12/08/20, 1/21/21, 02/25/21,
3/23/21, 4/27/21, 6/1/21, 6/15/21, 7/8/21, 7/20/21

Docket 1

Party Information

Debtor(s):

Dana Hollister

Represented By
David A Tilem
Mark A Kressel
Alan M Insul

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Wednesday, August 18, 2021

Hearing Room 1545

9:00 AM

2:18-12429 Dana Hollister

Chapter 11

#4.00 Trial re: Motion for relief from stay [RP]

BOBS, LLC
vs
DEBTOR

Docket 936

Party Information

Debtor(s):

Dana Hollister

Represented By
David A Tilem
Mark A Kressel
Alan M Insul

Movant(s):

Bobs, LLC

Represented By
David I Brownstein
Gerrick Warrington

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, August 19, 2021

Hearing Room 1545

8:00 AM
2:00-00000

Chapter

- #1.00** Hearings in Judge Bason's courtroom (1545) are now **simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone.** You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. ZoomGov appearances are free.

ZoomGov Instructions for all matters on today's calendar:

Meeting ID: 161 852 8358

Password: 490689

Meeting URL: <https://cacb.zoomgov.com/j/1618528358>

Telephone: +1 669 254 5252 or +1 646 828 7666 or 833 568 8864 (Toll Free)

Please connect at least 5 minutes before the start of your hearing, and wait with your microphone muted until your matter is called.

CHAPTER 13: Persons needing to contact the Chapter 13 Trustee's attorney, either prior to the hearing or during a recess, can call Kaleen Murphy, Esq. at (213) 996-4433.

Docket 0

Tentative Ruling:

- NONE LISTED -

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, August 19, 2021

Hearing Room 1545

9:00 AM

2:21-14961 David Romero

Chapter 13

#1.00 Hrg re: Motion for relief from stay [RP]

RJS Financial, Inc.
vs
DEBTOR

Docket 16

Tentative Ruling:

Appearances required.

Grant as set forth below, subject to any opposition made at the hearing, based on the motion papers (dkt. 16, 17), this Court's order shortening time ("OST," dkt. 19), and the notice and proofs of service (dkt. 21, 22, 23).

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

The automatic stay does not apply

The tentative ruling is that the automatic stay does not apply to the subject properties. Movant has provided ample evidentiary support that Dos Potrillos LLC owned the subject properties in fee. See, e.g., Decl. of Matt Gross (dkt. 17), Ex. 4, PDF pp. 49–50. Debtor's role as the managing member of Dos Potrillos LLC conferred no legal or equitable interest in the subject properties upon him in his individual capacity, and thus the subject properties were not "property of the estate" under 11 U.S.C. 362(a).

In the alternative and in addition, the tentative ruling is to grant relief from the automatic stay as follows.

Note regarding mootness: Judge Bason's standard tentative ruling is as follows. For three reasons the above tentative ruling that there *is no stay* does not moot requests for relief from whatever stay might apply. First, such *alternative* rulings are appropriate because (i) the very nature of *tentative* rulings is that this Court could be persuaded to depart from any one of them, and (ii) a *final* ruling on any one issue could be reversed on appeal. Second,

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CONT... David Romero

Chapter 13

even if there is currently no stay, that could change - e.g., if there is no stay because of dismissal of this bankruptcy case, such dismissal could be vacated and that might reimpose the stay even if there is a lack of adequate protection, or other grounds why the stay should not apply, and therefore the movant will suffer cognizable harm unless the issues are addressed now (Judge Bason regularly vacates dismissals based on stipulations or other good cause). Third, if the motion includes any request for relief as to *past* acts (annulment) or *future* cases (*in rem* relief), those things are still at issue even if there is no *current* automatic stay. See *In re Aheong*, 276 B.R. 233 (9th Cir. BAP 2002). For all of these reasons, the tentative ruling is that it is appropriate to address the following issues.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Retroactive relief

Grant the request for retroactive annulment of the stay. See *In re Nat'l Enviro. Waste Corp.*, 129 F.3d 1052, 1054-56 (9th Cir. 1997); *In re Fjeldsted*, 293 B.R. 12 (9th Cir. BAP 2003); and see also *In re Williams*, 323 B.R. 691, 697-702 (9th Cir. BAP 2005) (various issues involving annulment, and application of *Fjeldsted*), *aff'd*, 204 Fed.Appx. 582 (9th Cir. 2006), *overruled on other issues*, *In re Perl*, 811 F.3d 1120 (9th Cir. 2016) (scope of automatic stay).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you

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CONT... **David Romero**

Chapter 13

wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone**. You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

David Romero

Pro Se

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar

Thursday, August 19, 2021

Hearing Room 1545

9:00 AM

2:18-12429 Dana Hollister

Chapter 11

#2.00 Cont'd hrg re: Motion for order determining
value of collateral
fr. 8/18/21

Docket 1430

*** VACATED *** REASON: Oral ruling at 8/18/21 hearing staying
proceedings on this motion.

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Dana Hollister

Represented By
David A Tilem
Mark A Kressel
Alan M Insul

**United States Bankruptcy Court
Central District of California
Los Angeles
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Thursday, August 19, 2021

Hearing Room 1545

9:00 AM

2:18-12429 Dana Hollister

Chapter 11

#3.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 10/1/19, 11/12/19, 11/21/19, 01/14/20, 03/03/20,
04/07/20, 5/19/20, 7/14/20, 7/28/20, 8/4/20, 9/15/20,
10/27/20, 01/26/21, 4/27/21, 6/1/21, 7/8/21, 8/18/21

BOBS, LLC
vs
DEBTOR

Docket 936

Tentative Ruling:

Tentative Ruling for 8/19/21:

Please see the tentative ruling for the status conference (Calendar No. 4, 8/19/21).

[INTERIM TENTATIVE RULINGS OMITTED]

Tentative Ruling for 10/1/19:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (1) a proposed timeline, and sequence, for discovery and court proceedings regarding the value of the Paramour and whether Bobs, LLC's second loan is secured or unsecured, and (2) whether this Court should set an evidentiary hearing regarding the value of the Paramour, or whether other procedures are appropriate, such as using a third party appraiser, selected jointly by the parties' own appraisers, who would be either appointed as this Court's own expert witness to assist this Court in assessing the parties' appraisals and testimony of their appraisers, or, alternatively, whose determination would be binding. See Motion (dkt.936), Opposition papers (dkt.948, 949, 950, 951, 952), and Reply papers (dkt.958, 959).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at

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CONT... Dana Hollister

Chapter 11

www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Dana Hollister

Represented By
David A Tilem
Mark A Kressel
Alan M Insul

Movant(s):

Bobs, LLC

Represented By
David I Brownstein
Gerrick Warrington

**United States Bankruptcy Court
Central District of California
Los Angeles
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9:00 AM

2:18-12429 Dana Hollister

Chapter 11

#4.00 Cont'd Status Conference re: Chapter 11 Case
fr. 3/9/18, 3/20/18, 3/21/18, 4/17/18, 5/3/18, 5/7/18,
6/12/18, 6/22/18, 7/16/18, 8/3/18, 9/4/18, 11/6/18,
01/15/19, 1/29/19, 2/26/19, 3/26/19, 4/16/19;
04/29/19, 05/21/19, 5/28/19, 6/18/19, 7/2/19; 08/06/19,
10/15/19, 11/12/19, 11/21/19, 01/14/20, 3/3/20, 3/10/20,
04/07/20, 5/19/20, 6/16/20, 6/30/20, 7/14/20, 7/28/20,
8/4/20, 09/15/20, 10/27/20, 12/08/20, 1/21/21, 02/25/21,
3/23/21, 4/27/21, 6/1/21, 6/15/21, 7/8/21, 7/20/21, 8/18/21

Docket 1

Tentative Ruling:

Tentative Ruling for 8/19/21:

There is no tentative ruling but, as orally ruled at the hearing/trial on 8/19/21, the trial on the motion of Bobs, LLC for relief from the automatic stay will continue at 1:30 p.m. today. Appearances required.

(1) Current issues

This Court has no issues to raise *sua sponte* at this time.

(2) Deadlines/dates. This case was filed on 3/6/18.

(a) Bar date: 8/24/18 (dkt. 367, timely served per dkt. 383)

(b) Plan/Disclosure Statement: TBD. See the **revised** "Procedures of Judge Bason" (available at www.cacb.uscourts.gov) (search for "Chapter 11: Plan").

(c) Continued status conference: 8/18/21 at 9:00 a.m. to be held contemporaneous with the trial on Bobs' R/S Motion. No written status report required. (But Pre-Trial Stipulation is due 8/9/21, and Pre-Trial Briefs and Motions in Limine, if any, are due 8/13/21, per Scheduling Order, dkt.1419).

(d) Limited Notice: A "Core Service List" has been established (see dkt.97, p.3:4-17, dkt.195), as modified by any updates (contact Debtor for latest list).

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If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone.** You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED (for principal issues, see dkt. 238, 239, 528, 547, 557, 1330, 1382-83, 1410)]

Party Information

Debtor(s):

Dana Hollister

Represented By
David A Tilem
Mark A Kressel
Alan M Insul

**United States Bankruptcy Court
Central District of California
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Thursday, August 19, 2021

Hearing Room 1545

9:00 AM

2:18-12429 Dana Hollister

Chapter 11

#5.00 Trial re: Motion for relief from stay [RP]

BOBS, LLC
vs
DEBTOR

Docket 936

Tentative Ruling:

Tentative Ruling for 8/19/21:

Please see the tentative ruling for the status conference (Calendar No. 4, 8/19/21).

[INTERIM TENTATIVE RULINGS OMITTED]

Tentative Ruling for 10/1/19:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (1) a proposed timeline, and sequence, for discovery and court proceedings regarding the value of the Paramour and whether Bobs, LLC's second loan is secured or unsecured, and (2) whether this Court should set an evidentiary hearing regarding the value of the Paramour, or whether other procedures are appropriate, such as using a third party appraiser, selected jointly by the parties' own appraisers, who would be either appointed as this Court's own expert witness to assist this Court in assessing the parties' appraisals and testimony of their appraisers, or, alternatively, whose determination would be binding. See Motion (dkt.936), Opposition papers (dkt.948, 949, 950, 951, 952), and Reply papers (dkt.958, 959).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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CONT... Dana Hollister

Chapter 11

Party Information

Debtor(s):

Dana Hollister

Represented By
David A Tilem
Mark A Kressel
Alan M Insul

Movant(s):

Bobs, LLC

Represented By
David I Brownstein
Gerrick Warrington

**United States Bankruptcy Court
Central District of California
Los Angeles
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Hearing Room 1545

8:00 AM
2:00-00000

Chapter

- #1.00** Hearings in Judge Bason's courtroom (1545) are now **simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone.** You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. ZoomGov appearances are free.

ZoomGov Instructions for all matters on today's calendar:

Meeting ID: 160 279 2592

Password: 978453

Meeting URL: <https://cacb.zoomgov.com/j/1602792592>

Telephone: +1 669 254 5252 or +1 646 828 7666 or 833 568 8864 (Toll Free)

Please connect at least 5 minutes before the start of your hearing, and wait with your microphone muted until your matter is called.

CHAPTER 13: Persons needing to contact the Chapter 13 Trustee's attorney, either prior to the hearing or during a recess, can call Kaleen Murphy, Esq. at (213) 996-4433.

Docket 0

Tentative Ruling:

- NONE LISTED -

**United States Bankruptcy Court
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Thursday, August 26, 2021

Hearing Room 1545

9:00 AM

2:18-20704 Finnian Osakpamwan Ebuehi

Chapter 7

Adv#: 2:20-01633 Mastan, Chapter 7 Trustee v. Ebuehi et al

#1.00 Cont'd pretrial Conference re: Complaint Objecting to Discharge
fr. 12/1/20, 4/27/21, 8/3/21

Docket 1

Tentative Ruling:

Tentative Ruling for 8/26/21:

Please see the tentative ruling for the trial (Calendar No. 2, 8/26/21 at 9:00 a.m.).

Tentative Ruling for 8/3/21:

Continue to 8/26/21 at 9:00 a.m. (the trial date). Appearances are not required on 8/3/21.

(A) Current issues

This Court is not aware of any issues that need to be addressed prior to trial. The parties have resolved their disputes concerning the pretrial stipulation and order. See Order (adv. dkt. 42) and Stipulation (adv. dkt. 44).

This Court understands that the parties intend to appear in person for the trial. The parties are reminded that face masks are required under the current policy adopted by the judges of the Bankruptcy Court, as well as Judge Bason's own policies.

The parties are also directed to review the posted "Procedures of Judge Bason" (available at www.cacb.uscourts.gov) regarding trial procedures.

(B) Standard requirements

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority

Matters of venue, jurisdiction, and authority have been determined

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CONT... **Finnian Osakpamwan Ebuehi**
and/or waived or forfeited (adversary docket number 19).

Chapter 7

(2) Mediation [Intentionally omitted]

(3) Deadlines

This adversary proceeding has been pending since 9/29/20. On 12/2/20, this Court entered a scheduling order (adv.dkt.23) memorializing certain dates and deadlines which have now passed and have been omitted below.

Deliver trial exhibits to other parties and chambers, including direct testimony by declaration unless excused: 8/5/21

Trial commencement: 8/26/21 at 9:00 a.m.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 4/27/21:

Appearances required.

(A) Current issues

This Court has reviewed the parties' joint status report (adv.dkt. 28) and the other filed documents and records in this adversary proceeding.

(1) The deadline to complete discovery has passed

Defendants/Debtors state that they anticipate propounding interrogatories on Plaintiff/UST and completing discovery by 5/30/21. Adv.Dkt. 28, p.2. But this Court's prior scheduling order (adv. dkt. 23, p.1,

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CONT... **Finnian Osakpamwan Ebuehi**

Chapter 7

para. "(3)(f)") set 3/2/21 as the "last day for discovery to be completed, including receiving responses to discovery requests," and Defendants/Debtors have not filed any motion for reconsideration of that deadline. The tentative ruling is that the Status Report cannot be treated as such a motion.

This Court notes that Plaintiff/UST asserts that Defendants/Debtors have "[not] responded (timely or otherwise) to written discovery served by Plaintiff, including interrogatories, requests for production of documents and requests for admissions." Adv. dkt. 28, p.4. The tentative ruling is that this Court will not take any action on that non-responsiveness *sua sponte* (without prejudice to any evidentiary or other consequences that might be requested by Plaintiff/UST at trial or any other time).

(B) Standard requirements

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (adversary docket number 19).

(2) Mediation

Plaintiff/UST does not wish to have this matter sent to mediation. Stat.Rpt. (adv.dkt.28), p.3. Defendants/Debtors request mediation and state that they seek a chapter 7 discharge and to "obtain the homestead exemption funds." Stat.Rpt. (adv.dkt.28), pp.3-4. The tentative ruling is that (a) mediation would not appear to be productive, given the lack of participation in discovery by Defendants/Debtors and the opposition of Plaintiff/UST; and (b) whether and when Defendants/Debtors are or are not entitled to any homestead exemption funds is not within the scope of this adversary proceeding.

(3) Deadlines

This adversary proceeding has been pending since 9/29/20. On 12/2/20, this Court entered a scheduling order (adv.dkt.23) memorializing

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CONT... **Finnian Osakpamwan Ebuehi**

Chapter 7

certain dates and deadlines which have now passed and have been omitted below. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed amended scheduling order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following new dates and deadlines.

Lodge Joint Proposed Pre-Trial Order: 7/20/21

Pretrial conference: 8/3/21 at 11:00 a.m.

Deliver trial exhibits to other parties and chambers, including direct testimony by declaration unless excused: 8/5/21

Trial commencement: 8/9/21 at 9:00 a.m.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 12/1/20:

Appearances required.

This Court has reviewed the parties' joint status report (adv.dkt. 19) and the other filed documents and records in this adversary proceeding.

(A) Standard requirements

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority

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CONT...

Finnian Osakpamwan Ebuehi

Chapter 7

The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this Bankruptcy Court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. *See generally Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). *See generally In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation

[Intentionally omitted: it appears that mediation may be unproductive at this time.]

(3) Deadlines

This adversary proceeding has been pending since 9/29/20. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Joinder of parties/amendment of pleadings: 2/16/21 deadline.

Discovery cutoff (for *completion* of discovery): 3/2/21.

Expert(s) - deadline for reports: N/A

Expert(s) - discovery cutoff (if different from above): N/A

Dispositive motions to be heard no later than: 4/27/20

Joint Status Report: 4/13/21.

Continued status conference: 4/27/21 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers, including direct testimony by declaration unless excused: TBD

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Los Angeles
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CONT... **Finnian Osakpamwan Ebuehi**
Trial commencement: TBD

Chapter 7

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Finnian Osakpamwan Ebuehi

Represented By
Edwin I Aimufua
Joseph Virgilio

Defendant(s):

Finnian Osakpamwan Ebuehi

Pro Se

Elizabeth Olohirere Ebuehi

Pro Se

Joint Debtor(s):

Elizabeth Olohirere Ebuehi

Represented By
Edwin I Aimufua
Joseph Virgilio

Plaintiff(s):

Peter J. Mastan, Chapter 7 Trustee

Represented By
Ashleigh A Danker

Trustee(s):

Peter J Mastan (TR)

Represented By

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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9:00 AM

CONT...

Finnian Osakpamwan Ebuehi

Ashleigh A Danker

Chapter 7

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Thursday, August 26, 2021

Hearing Room 1545

9:00 AM

2:18-20704 Finnian Osakpamwan Ebuehi

Chapter 7

Adv#: 2:20-01633 Mastan, Chapter 7 Trustee v. Ebuehi et al

#2.00 Trial re: Complaint Objecting to Discharge

Docket 1

Tentative Ruling:

Appearances required.

(1) Current issues

(a) Evidentiary objections

This Court has reviewed Plaintiff/UST's direct testimony declarations (adv. dkt. 49, 50, 51) and Defendants'/Debtors' joint direct testimony declaration (adv. dkt. 55), as well as the parties' evidentiary objections (adv. dkt. 56, 58).

(i) Plaintiff/UST's evidentiary objections (dkt. 58)

The tentative ruling is to overrule the objections to Defendants'/Debtor's "joint" declaration. Dkt. 55. This Court construes that document as comprising two identical declarations - one by each Defendant/Debtor - and this Court is not aware of any undue prejudice to Plaintiff that would warrant striking or excluding the declarations as so construed. The tentative ruling is that the remaining objections go to the weight rather than the admissibility of the Defendants'/Debtors' statements.

Note: As to the assertion in paragraph 19 of Defendants'/Debtors' declaration(s), addressing the ability to obtain information from third parties, this Court notes the following. On the one hand, Defendants'/Debtors cite authority that, "To state a prima facie case under 727(a)(3), a party objecting to discharge must show (a) that the debtor failed to maintain and preserve adequate records, and (2) that such failure makes it impossible to ascertain the debtor's financial condition and material business transactions." *In re Cox*, 41 F.3d 1294, 1296 (9th Cir. 1994) (quoting *Meridian Bank v. Aten*, 958 F.2d 1226, 1232 (3rd Cir. 1992)) (emphasis added). See Def.Trial Brief (adv. dkt. 65), pp. 2:6-16 & 4:1-6:6.

On the other hand, 11 U.S.C. 727(a)(3) imposes an "affirmative duty" on debtors to create and preserve records (*see In re Caneva*, 550 F.3d 755 (9th Cir. 2008)) and Plaintiff appears to assert that the collection of rents in

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Courtroom 1545 Calendar**

Thursday, August 26, 2021

Hearing Room 1545

9:00 AM

CONT... **Finnian Osakpamwan Ebuehi**

Chapter 7

cash makes it impossible, even with potential access to third parties and bank records, to be sure of Defendants/Debtors' financial condition or business transactions because of the difficulty in tracing cash transactions without contemporaneous written records.

Those are among the issues on which this Court expects to focus at trial. If the parties believe that this Court has misconstrued the law or relevant factual issues on this particular matter (or any other), they are encouraged to direct this Court's attention to appropriate evidence and/or legal authority.

(ii) Defendant/Debtor's evidentiary objections (dkt. 56)

The tentative ruling is to sustain the objection to Paragraph 12 of Chapter 7 Trustee Mastan's declaration (adv. dkt. 51) about the condition of the subject property when his agents (or he?) viewed that property, due to lack of foundation as to personal knowledge and (apparently) hearsay. The tentative ruling is also to sustain the objections to Ms. Danker's declaration (adv. dkt. 50), except as follows:

(A) Paragraph 9:17-19: Overrule, in part, as to the assertion that "Neither [of the Defendants/Debtors] appeared at the meetings held on March 4, 2020 and April 24, 2020," because Ms. Danker testifies that the first section 341(a) meeting she attended was on January 28, 2020 and that she "attended all subsequent sessions of the [Defendants'/Debtors'] section 341(a) meeting that were held," (adv. dkt. 50, para. 9:15-17), so she has personal knowledge that Defendants/Debtors did not appear at the meetings on March 4, 2020 and April 24, 2020. Sustain as to the lack of foundation for Ms. Danker's assertion that the lack of appearance was "ostensibly on the grounds that one or the other of [Defendants/Debtors] was 'sick.'"

(B) Paragraph 9:19-20: Overrule. The declarant's assertion (that Defendant/Debtor Mr. Ebuehi missed certain meetings of creditors without consent by the Trustee) is not hearsay, and the alternative objection ("Lack of preliminary facts-whether the debtors had notice of the 341a meetings") is in the nature of rebuttal, not a ground to exclude the Plaintiff's evidence.

(C) Paragraph 20: Overrule, in part, as to the assertion that Defendants/Debtors failed to appear at their Section 341(a) meetings of creditors on March 4, 2020 and April 28, 2020, because Ms. Danker has personal knowledge that Debtors did not appear at those meetings. Adv. dkt. 50, para. 9:15-17.

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Chapter 7

(b) Plaintiff/UST's request for judicial notice (adv. dkt. 61)

Plaintiff/UST requests that this Court take judicial notice of sixteen documents comprised of documents and orders filed in the bankruptcy case and this adversary proceeding and several certified transcripts from 341(a) meetings.

The tentative ruling is to grant the request and take judicial notice of all sixteen exhibits because they are court documents and matters of public record. Fed. R. Evid. 201; *Reyn's Pasta Bella, LLC v. Visa USA, Inc.*, 442 F.3d 741, 746 n.6 (9th Cir. 2006).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone**. You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Finnian Osakpamwan Ebuehi

Represented By
Joseph Virgilio
Bernal P Ojeda

Defendant(s):

Finnian Osakpamwan Ebuehi

Represented By
Bernal P Ojeda

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CONT... Finnian Osakpamwan Ebuehi

Chapter 7

Elizabeth Olohirere Ebuehi

Represented By
Bernal P Ojeda

Joint Debtor(s):

Elizabeth Olohirere Ebuehi

Represented By
Joseph Virgilio
Bernal P Ojeda

Plaintiff(s):

Peter J. Mastan, Chapter 7 Trustee

Represented By
Ashleigh A Danker

Trustee(s):

Peter J Mastan (TR)

Represented By
Ashleigh A Danker

**United States Bankruptcy Court
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2:00-00000

Chapter

- #1.00** Hearings in Judge Bason's courtroom (1545) are now **simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone.** You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. ZoomGov appearances are free.

ZoomGov Instructions for all matters on today's calendar:

Meeting ID: 160 360 4589
Password: 880444

Meeting URL: <https://cacb.zoomgov.com/j/1603604589>
Telephone: +1 669 254 5252 or +1 646 828 7666 or 833 568 8864 (Toll Free)

Please connect at least 5 minutes before the start of your hearing, and wait with your microphone muted until your matter is called.

CHAPTER 13: Persons needing to contact the Chapter 13 Trustee's attorney, either prior to the hearing or during a recess, can call Kaleen Murphy, Esq. at (213) 996-4433.

Docket 0

Tentative Ruling:

- NONE LISTED -

**United States Bankruptcy Court
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Tuesday, August 31, 2021

Hearing Room 1545

10:00 AM

2:16-10576 Rafael Valpuesta Ferrer

Chapter 13

#1.00 Hrg re: Motion for relief from stay [RP]

DEUTSCHE BANK NATIONAL TRUST CO
vs
DEBTOR

Docket 69

Tentative Ruling:

Appearances required.

There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 72).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone.** You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

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10:00 AM

CONT... Rafael Valpuesta Ferrer

Chapter 13

Debtor(s):

Rafael Valpuesta Ferrer

Represented By
Jaime A Cuevas Jr.

Movant(s):

Deutsche Bank National Trust

Represented By
Daniel K Fujimoto
Alan Steven Wolf
Caren J Castle

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Tuesday, August 31, 2021

Hearing Room 1545

10:00 AM

2:17-19840 Melba Lourdes Nunez-Cardenes

Chapter 13

#2.00 Hrg re: Motion for relief from stay [RP]

U.S. BANK NATIONAL ASSOC
vs
DEBTOR

Docket 49

Tentative Ruling:

Appearances are not required.

Grant as set forth below.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If

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10:00 AM

CONT... Melba Lourdes Nunez-Cardenes

Chapter 13

appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone.** You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Melba Lourdes Nunez-Cardenes

Represented By
Richard McAndrew

Movant(s):

U.S. Bank National Association, as

Represented By
Kirsten Martinez

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Hearing Room 1545

10:00 AM

2:19-19773 Jose Armando Jimenez and Martha Laura Arreola De

Chapter 13

#3.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 6/1/21, 7/6/21, 7/20/21

SELECT PORTFOLIO SERVICING INC.
VS
DEBTOR

Docket 27

Tentative Ruling:

Tentative Ruling for 8/31/21 (same as for 7/20/21 and 7/6/21, except dates):

Appearances required.

At the 6/1/21, 7/6/21 and 7/20/21 hearings, this Court was persuaded to continue the matter to this date to allow the parties an opportunity to agree to the terms of an adequate protection agreement. See *a/so* Debtors' Reponse (dkt. 29). As of the date this tentative ruling was prepared, no stipulation and/or proposed adequate protection order has been filed with this Court. There is no tentative ruling, but the parties should be prepared to address whether (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

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10:00 AM

CONT... **Jose Armando Jimenez and Martha Laura Arreola De**

Chapter 13

Tentative Ruling for 6/1/21:

Appearances are not required.

Grant as set forth below.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

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10:00 AM

CONT... Jose Armando Jimenez and Martha Laura Arreola De

Chapter 13

Debtor(s):

Jose Armando Jimenez

Represented By
Lauren M Foley

Joint Debtor(s):

Martha Laura Arreola De Jimenez

Represented By
Lauren M Foley

Movant(s):

Select Portfolio Servicing Inc. as

Represented By
Josephine E Salmon

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Tuesday, August 31, 2021

Hearing Room 1545

10:00 AM

2:21-10132 Javier Hernandez

Chapter 13

#4.00 Hrg re: Motion for relief from stay [PP]

BANK OF THE WEST
vs
DEBTOR

Docket 37

***** VACATED *** REASON: APO**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Javier Hernandez

Represented By
Jaime A Cuevas Jr.

Movant(s):

BANK OF THE WEST

Represented By
Mary Ellmann Tang

Trustee(s):

Kathy A Dockery (TR)

Pro Se

United States Bankruptcy Court
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Tuesday, August 31, 2021

Hearing Room 1545

10:00 AM

2:21-15075 Seung Lee

Chapter 7

#5.00 Hrg re: Motion for relief from stay [UD]

WREN LA JV, LLC
vs
DEBTOR

Docket 8

*** VACATED *** REASON: Amended notice of motion filed. Set for
hearing on 9/14/21 at 10:00 a.m. [dkt. 9]

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Seung Lee

Pro Se

Movant(s):

WREN LA JV, LLC

Represented By
Agop Gary Arakelian

Trustee(s):

Brad D Krasnoff (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 1545

10:00 AM

2:21-15439 Maria Teresa Urquiza

Chapter 13

#6.00 Hrg re: Motion for relief from stay [UD]

ULISES DURAN
vs
DEBTOR

Docket 23

Tentative Ruling:

Appearances are not required.

Grant as set forth below.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Relief notwithstanding future bankruptcy cases.

Grant the following relief pursuant to the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017):

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within 180 days after the date of entry of this order, unless otherwise

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10:00 AM

CONT...

Maria Teresa Urquiza

Chapter 13

ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is sufficient evidence and notice.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone**. You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

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10:00 AM

CONT... Maria Teresa Urquiza

Chapter 13

Debtor(s):

Maria Teresa Urquiza

Represented By
Onyinye N Anyama

Movant(s):

Ulises Duran

Represented By
Sevan Gorginian

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Tuesday, August 31, 2021

Hearing Room 1545

11:00 AM

2:21-13252 Mario A. Cisneros and Carolina G. Cisneros

Chapter 7

#1.00 Hrg re: Motion for waiver of requirement to take financial management course for debtor Mario A. Cisneros

Docket 14

Tentative Ruling:

Appearances are not required.

Grant.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone.** You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Mario A. Cisneros

Represented By
W. Derek May

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11:00 AM

CONT... Mario A. Cisneros and Carolina G. Cisneros

Chapter 7

Joint Debtor(s):

Carolina G. Cisneros

Represented By
W. Derek May

Trustee(s):

Carolyn A Dye (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, August 31, 2021

Hearing Room 1545

11:00 AM

2:21-12216 Susan Jane Bybee

Chapter 13

Adv#: 2:21-01112 Bybee v. Rediger Investment Mortgage Fund

- #2.00** Status conference re: Complaint for: 1) Prohibited loan terms; 2) Asset-based lending; 3) Rescission-related violations; 4) Violation of the home affordable modification program & "Dual Tracking"; 5) Violation of Cal.Civil code 2923.5; 6) Breach of contract; 7) Violation of Civil Code section 2937

Docket 1

Tentative Ruling:

Continue, with deadlines to lodge a mediation order etc. Appearances are not required on 8/31/21.

(A) Current issues

This Court has reviewed the parties' joint status report (adv. dkt. 5) and the other filed documents and records in this adversary proceeding. The tentative ruling is to continue this matter as set forth below and order the parties to participate in mandatory mediation.

(B) Standard requirements

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority

The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this Bankruptcy Court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. See generally *Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702

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CONT... Susan Jane Bybee

Chapter 13

F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). *See generally In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation

The tentative ruling is to set a **deadline of 9/14/21** for the parties to lodge a proposed mediation order (the parties are directed to use the time between now and that deadline to find a mutually agreeable mediator whose schedule can accommodate the needs of this matter; and if the parties cannot even agree on a mediator they may lodge separate orders and Judge Bason will chose among them, or issue his own order).

(3) Deadlines

This adversary proceeding has been pending since 6/21/21. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Joinder of parties/amendment of pleadings-deadline: TBD

Discovery cutoff (for completion of discovery): TBD

Expert(s) - deadline for reports: TBD

Expert(s) - discovery cutoff (if different from above): TBD

Dispositive motions to be heard no later than: TBD

Joint Status Report: 11/16/21.

Continued status conference: 11/30/21 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers, including direct testimony by declaration unless excused: TBD

Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason

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CONT... Susan Jane Bybee

Chapter 13

(available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone.** You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Susan Jane Bybee

Represented By
Carl Shaff II

Defendant(s):

Rediger Investment Mortgage Fund

Pro Se

Plaintiff(s):

Susan Jane Bybee

Represented By
Carl Shaff II

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, August 31, 2021

Hearing Room 1545

11:00 AM

2:19-23664 Liat Talasazan

Chapter 7

Adv#: 2:21-01114 United States Trustee (LA) v. Talasazan

#3.00 Status Conference re: Complaint to Deny the Debtor's Discharge Pursuant to 11 U.S.C. Sections 727(a)(6)(A) and (a)(2)(B)

Docket 1

***** VACATED *** REASON: This matter is scheduled to be heard at a different time. See #6 at 2:00 p.m.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Liat Talasazan

Represented By
Giovanni Orantes
Luis A Solorzano

Defendant(s):

Liat Talasazan

Pro Se

Plaintiff(s):

United States Trustee (LA)

Represented By
Noreen A Madoyan

Trustee(s):

Caroline Renee Djang (TR)

Represented By
David Wood

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, August 31, 2021

Hearing Room 1545

11:00 AM

2:19-23664 Liat Talasazan

Chapter 7

Adv#: 2:21-01041 Oxygen Funding, Inc. v. Talasazan

#4.00 Cont'd status conference re: Complaint for determination of dischargeability and objecting to debtor's discharge pursuant to sections 523 and 727 of the Bankruptcy Code fr. 5/11/21

Docket 1

*** VACATED *** REASON: Continued to October 26, 2021 at 11:00 a.m.
[dkt. 13]

Tentative Ruling:

Party Information

Debtor(s):

Liat Talasazan

Represented By
Giovanni Orantes
Luis A Solorzano

Defendant(s):

Liat Talasazan

Pro Se

Plaintiff(s):

Oxygen Funding, Inc.

Represented By
Vonn Christenson

Trustee(s):

Caroline Renee Djang (TR)

Represented By
David Wood

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, August 31, 2021

Hearing Room 1545

11:00 AM

2:20-18631 Cristobal Cuauhtemoc Murillo Valdez

Chapter 13

Adv#: 2:21-01002 Kass v. Murillo Valdez

#5.00 Cont'd status conference re: Complaint to determine nondischargeability of debt (sections 523); and objection to discharge (section 727) fr. 3/9/21, 6/1/21, 7/6/21

Docket 1

Tentative Ruling:

Tentative Ruling for 8/31/21:

Continue to 9/28/21 at 11:00 a.m., subject to being mooted if a stipulated judgment and order closing this adversary proceeding are issued before that time. Appearances are not required on 8/31/21.

(A) Current issues

(1) Stipulation for Entry of Non-Dischargeability Judgment (adv. dkt. 16)

On 8/5/21, Plaintiff filed a stipulation between the parties for entry of non-dischargeability judgment. As of the date this tentative ruling was prepared, no proposed judgment has been lodged with this Court.

In addition, although it appears that the parties might intend for the stipulated judgment to resolve all issues between them, it is possible that other matters could need to be addressed before this adversary proceeding is closed - e.g., if any party believes it is entitled to seek an award of costs. If nothing further is contemplated, Plaintiff is directed to lodge a proposed order closing this adversary proceeding.

The tentative ruling is to set a **deadline of 9/7/21** for Plaintiff to lodge a proposed judgment and a proposed order with the Court as described above.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, August 31, 2021

Hearing Room 1545

11:00 AM

CONT... Cristobal Cuauhtemoc Murillo Valdez

Chapter 13

Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone.** You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Revised Tentative Ruling for 7/6/21:

Continue to 8/31/21 at 11:00 a.m. in view of the parties' status report (adv. dkt. 15). Appearances are not required on 7/6/21.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov.** For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Cristobal Cuauhtemoc Murillo

Represented By
Marc A Goldbach

Defendant(s):

Cristobal Cuauhtemoc Murillo

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, August 31, 2021

Hearing Room 1545

11:00 AM

CONT... Cristobal Cuauhtemoc Murillo Valdez

Chapter 13

Plaintiff(s):

Martin J Kass

Represented By
Dennis Kass
David Riera Ruiz

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, August 31, 2021

Hearing Room 1545

11:00 AM

2:19-20396 Irene H Kim

Chapter 7

#6.00 Cont'd hrg re: Motion of Chapter 7 Trustee for Order
Compelling Turnover of Real Property
fr. 8/17/21

Docket 76

Tentative Ruling:

Tentative Ruling 8/31/21:

Appearances are not required.

Grant as to all occupants (in addition to the relief granted at the hearing on 8/17/21 (copied below)).

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Key documents reviewed (in addition to motion papers): Amended proof of service (dkt. 84), Notice of continued hearing (dkt. 85)

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone.** You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, August 31, 2021

Hearing Room 1545

11:00 AM

CONT... Irene H Kim

Chapter 7

Tentative Ruling for 8/17/21:

Grant the motion as to the Debtor, but continue this matter to 8/31/21 at 11:00 a.m. with a deadline of 8/18/21 for the Trustee to serve the motion papers on "all occupants" of the subject property and file a proof of service. Appearances are not required on 8/17/21.

Option for interim/partial order: Movant may elect to lodge a proposed order granting the *partial* relief provided in this tentative ruling, but any such order must recite that a continued hearing has been set to consider additional relief (or, alternatively, that the movant no longer seeks additional relief and the Clerk's office is requested and directed to take the continued hearing off calendar).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone**. You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Irene H Kim

Represented By
Donald E Iwuchuku

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, August 31, 2021

Hearing Room 1545

11:00 AM

CONT... Irene H Kim

Chapter 7

Trustee(s):

Timothy Yoo (TR)

Represented By
Carmela Pagay

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, August 31, 2021

Hearing Room 1545

1:00 PM

2:21-11352 Stern Holdings, Inc.

Chapter 11

#1.00 Hrg re: Motion for relief from stay [RP]

ALLSTAR FINANCIAL SERVICES, INC.
vs
DEBTOR

Docket 58

Tentative Ruling:

Grant. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

The automatic stay does not apply

This case has been dismissed, which terminates the automatic stay. See 11 U.S.C. 349(b)(3) & 362(c).

In the alternative and in addition, the tentative ruling is to grant relief from the automatic stay as follows.

Note regarding mootness: Judge Bason's standard tentative ruling is as follows. For three reasons the above tentative ruling that there *is no stay* does not moot requests for relief from whatever stay might apply. First, such *alternative* rulings are appropriate because (i) the very nature of *tentative* rulings is that this Court could be persuaded to depart from any one of them, and (ii) a *final* ruling on any one issue could be reversed on appeal. Second, even if there is currently no stay, that could change - e.g., if there is no stay because of dismissal of this bankruptcy case, such dismissal could be vacated and that might reimpose the stay even if there is a lack of adequate protection, or other grounds why the stay should not apply, and therefore the movant will suffer cognizable harm unless the issues are addressed now (Judge Bason regularly vacates dismissals based on stipulations or other good cause). Third, if the motion includes any request for relief as to *past*

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, August 31, 2021

Hearing Room 1545

1:00 PM

CONT... Stern Holdings, Inc.

Chapter 11

acts (annulment) or *future* cases (*in rem* relief), those things are still at issue even if there is no *current* automatic stay. See *In re Aheong*, 276 B.R. 233 (9th Cir. BAP 2002). For all of these reasons, the tentative ruling is that it is appropriate to address the following issues.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Relief notwithstanding future bankruptcy cases.

Grant the following relief pursuant to 11 U.S.C. 362(d)(4) and the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017):

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is sufficient evidence and notice.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

If appearances are not required at the start of this tentative ruling but you

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Los Angeles
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CONT... Stern Holdings, Inc.

Chapter 11

wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone**. You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Stern Holdings, Inc.

Represented By
Matthew Abbasi

Movant(s):

Allstar Financial Services, Inc.

Represented By
Anthony Geraci
Mike D Neue

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, August 31, 2021

Hearing Room 1545

1:00 PM

2:21-11352 Stern Holdings, Inc.

Chapter 11

#2.00 Cont'd Status Conference re: Chapter 11 Case
fr. 3/23/21, 4/27/21, 6/1/21, 6/29/21, 8/3/21

Docket 1

Tentative Ruling:

Tentative Ruling for 8/31/21:

Continue as set forth below. Appearances are not required on 8/31/21.

(1) Current issues

(a) Motion for relief from the automatic stay of Allstar Financial Services (dkt. 58, the "R/S Motion"), no opposition on file

Grant as set forth in Calendar 1 (8/31/21 at 1:00 p.m.).

(b) Dismissal of case and post-dismissal status conference

At a hearing on 8/3/21 this Court dismissed this case, and set a post-dismissal status conference ("Status Conference") for 9/28/21 at 2:00 p.m. See dkt. 61, 63. In addition, pursuant to this Court's procedural order issued at the start of this case (dkt. 3, timely served, dkt. 5), a Status Conference will also be held contemporaneous with any other matters on calendar (in case there are issues that are best addressed at a Status Conference instead of any other matter on calendar). This Court is not aware of any such issues, so the tentative ruling is simply to continue this Status Conference as previously ordered.

(2) Dates/procedures. This case was filed on 2/19/21 and dismissed on 8/6/21 (dkt. 61).

(a) Amended Bar date: 6/30/21 (dkt. 30) (served 1 day late, dkt. 35, 36)

(b) Procedures order: dkt.3 (timely served, dkt.5)

(c) Plan/Disclosure Statement: N/A

(d) Continued status conference: 9/28/21 at 2:00 p.m., concurrent with other matters.

*Warning: special procedures apply (see order setting initial status conference).

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Central District of California
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Tuesday, August 31, 2021

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1:00 PM

CONT... Stern Holdings, Inc.

Chapter 11

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone**. You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Stern Holdings, Inc.

Represented By
Matthew Abbasi

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, August 31, 2021

Hearing Room 1545

1:00 PM

2:21-15810 Reeves Primary Residence, LLC, a Michigan Limited

Chapter 11

#3.00 Status Conference re: Chapter 11 Case

Docket 1

Tentative Ruling:

Appearances required by counsel for Debtor and by Debtor's principal.

(1) Current issues

(a) Failure to use required local form status report

The Procedures Order required Debtor to "file a Case Status Report on Local Form F 2081-1.1.C11.STATUS.RPT" (dkt. 4, p. 2:8-12). The tentative ruling is to excuse that requirement in view of Debtor's alternative status report (dkt. 23), and to save expenses Debtor is directed not to prepare and file the local form now. But in future matters Debtor's counsel are cautioned to follow the required procedures.

(b) Motion to approve stipulation to terminate the automatic stay (dkt. 35, the "R/S Motion") filed by Waterfall Bridge Advisors, Inc. ("Movant"), Application for hearing on shortened time (dkt. 36), Order shortening time (dkt. 37, "OST"), notice of hearing (dkt. 39) and declaration of service (dkt. 41), oppositions to be made orally at the hearing

As set forth in this Court's OST (dkt. 37, p.3) Movant is directed to address why this R/S Motion cannot wait to be heard concurrently with Debtor's motion to approve takeout financing (dkt. 29) on 9/14/21 at 1:00 p.m.

If this Court is persuaded to grant the relief requested in the R/S Motion at the hearing, the tentative ruling is to deny the request for any form of "in rem" relief that would be without the protections of 11 U.S.C. 362(d)(4) (e.g., recording a copy of the order, and providing for relief from the order in the circumstances noted in the statute).

(2) Dates/procedures. This case was filed on 7/19/21.

(a) Bar date: 12/9/21 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Procedures order: dkt. 4 (timely served, dkt. 10)

(c) Plan/Disclosure Statement: TBD

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, August 31, 2021

Hearing Room 1545

1:00 PM

CONT...

Reeves Primary Residence, LLC, a Michigan Limited

Chapter 11

(d) Continued status conference: 9/14/21 at 1:00 p.m., concurrent with other matters. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone**. You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Reeves Primary Residence, LLC, a

Represented By
Victor A Sahn

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, August 31, 2021

Hearing Room 1545

1:00 PM

2:21-15810 Reeves Primary Residence, LLC, a Michigan Limited

Chapter 11

#3.10 Hrg re: Motion to approve stipulation to terminate the automatic stay as to secured creditor Waterfall Bridge Advisors, Inc. and Related Matters

Docket 35

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 3, 8/31/21 at 1:00 p.m.).

Party Information

Debtor(s):

Reeves Primary Residence, LLC, a

Represented By
Victor A Sahn
Steven Werth

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, August 31, 2021

Hearing Room 1545

1:00 PM

2:21-10368 Mrudula Kothari

Chapter 11

#4.00 Hrg re: Motion to Avoid Lien Judicial Lien
with TomatoBank/Royal Business Bank

Docket 70

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 5,
8/31/21 at 1:00 p.m.).

Party Information

Debtor(s):

Mrudula Kothari

Represented By
Stella A Havkin

Trustee(s):

Susan K Seflin (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, August 31, 2021

Hearing Room 1545

1:00 PM

2:21-10368 Mrudula Kothari

Chapter 11

#5.00 Cont'd Status Conference re: Chapter 11 Case
fr. 2/9/21, 03/02/21, 4/6/21, 4/27/21, 6/1/21, 7/20/21

Docket 1

Tentative Ruling:

Tentative Ruling for 8/31/21:

Appearances required.

(1) Current issues

(a) Motion to avoid lien (dkt. 70 "Lien Avoidance Motion"), Opposition of Royal Business Bank ("Lienholder") (dkt. 75), Debtor's reply (dkt. 98) and notice of hearing (dkt. 99), Lienholder's unauthorized sur-reply (dkt. 103), Debtor's motion to strike sur-reply (dkt. 105), Debtor's response to sur-reply (dkt. 108)

The parties should be prepared to address the issues set forth below.

(i) Motion to strike sur-reply (dkt. 105)

The tentative ruling is to deny the motion and consider the unauthorized sur-reply, as an exception to LBR 9013-1(g), because (x) Debtor did not file the Amended Schedule C asserting a \$600,000.00 homestead exemption (dkt. 97) until *after* Lienholder had already filed its opposition papers, and (y) Lienholder did not have adequate time to conduct an appraisal of the subject property by the time its opposition papers were due and Debtor has not presented any evidence or argument that she would have stipulated to extend the deadline for Lienholder to file an opposition and/or continue the hearing on the Lien Avoidance Motion to allow time for Lienholder to obtain its own appraisal.

The tentative ruling is also to caution Lienholder that failure to seek leave to file a sur-reply in future may result in this Court striking those papers or the imposition of other adverse consequences. See LBR 9013-1(g).

(ii) Legal standard

Section 522(f)(2)(A) provides that a lien shall be considered to impair an exemption to the extent that the sum of—

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Central District of California
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Hearing Room 1545

1:00 PM

CONT...

Mrudula Kothari

Chapter 11

(i) the lien;
(ii) all other liens on the property; and
(iii) the amount of the exemption that the debtor could claim if there were no liens on the property; exceeds the value that the debtor's interest in the property would have in the absence of any liens. [11 U.S.C. 522(f)(2)(A) (i)-(iii)].

(iii) Costs of sale are not proper deductions

The tentative ruling is that Lienholder is correct that the relevant date for determining fair market value under 11 U.S.C. § 522(f) is the petition date and Debtor may not deduct "costs of sale" for purposes of determining the subject property's value. 11 U.S.C. §§ 522(a)(2) and (f)(2)(A); *see also In re Reynolds*, 2006 Bankr. LEXIS 4820, at *28 (9th Cir. BAP Aug. 4, 2006) (Rejecting the argument that hypothetical costs of sale and commissions should be included in calculation for purposes of 522(f)) (citation omitted); *see also In re Aslanyan*, 2017 Bankr. LEXIS 4363, at *4 (Bankr. E.D. Cal. Dec. 20, 2017) ("Liquidation costs or closing costs are not deducted from market value in the context of a motion to avoid a judicial lien") (collecting cases).

(iv) The Mansi Kothari lien is not relevant

Lienholder argues in its opposition papers that the "lien" of Mansi Kothari is fraudulent and should not be used in the calculation for purposes of avoiding its lien. Dkt. 75, p.4:13-26. But Debtor's reply makes clear that she did not include that lien in her calculations (dkt. 98, p.2:20-25) and Lienholder's sur-reply does not renew its objection as to that issue (dkt. 103), so the tentative ruling is to do any calculations without including that contested lien, and otherwise overrule the objection as moot.

(v) The amount of the second lien must be determined as of the petition date

Debtor asserts, without citation to legal authority, that the appropriate value of the second lien for purposes of the Lien Avoidance Motion is \$223,214.00, which consists of the amount reflected in Bank of America/SLS's proof of claim (\$219,674.63) plus two months of delinquent post-petition payments owing as of the date of the motion (dkt. 70, p.5:12-16).

The tentative ruling is that Debtor must use the amount of the second

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Hearing Room 1545

1:00 PM

CONT...

Mrudula Kothari

Chapter 11

lien as of the petition date (\$219,674.63), because the statute (§ 522(a)(2)) defines "value" of the property as of the petition date, and there is authority that to be logically consistent the dollar amounts of each lien and exemption should also be as of the petition date, with rare exceptions. See, e.g., *In re Salanoa*, 263 B.R. 120, 122-23 (Bankr. S.D. Cal. 2001) (suggesting possible exception if debtor fails to bring timely motion and the creditor can show prejudice); *In re Chiu*, 266 B.R. 743, 751-52 (9th Cir. BAP 2001) (debtor's interest in property that can be exempted, and exemption amount, are determined as of petition date), *aff'd*, 304 F.3d 905 (9th Cir. 2002); *In re Chiu*, 2017 Bankr. LEXIS 821, at *9, FN 2 (9th Cir. BAP Mar. 27, 2017) ("For purposes of applying § 522(f), the property value and the lien amounts as they existed on the bankruptcy petition date control") (emphasis added) (citations omitted).

(iv) Amount of Debtor's exemption

On 5/14/21 Debtor filed her amended Schedule C (dkt. 68) asserting a homestead exemption of \$553,791.21. *Id.* at p.2. But, after Lienholder argued that the Lien Avoidance Motion's calculations improperly used a larger homestead exemption than Debtor had claimed in her Schedule C (dkt. 75, p.5:19-28), Debtor filed an amended Schedule C increasing her claimed homestead exemption to \$600,000.00 (dkt. 96, p.2).

In its sur-reply Lienholder now argues that Debtor may only claim a homestead exemption in an amount in effect as of October 21, 2016, the date Lienholder recorded its abstract of judgment. Dkt. 103, pp.4:13-5:26. In support of this argument Lienholder relies on *In re Morgan*, 157 B.R. 467, 469-71 (Bankr. C.D. Cal. 1993) ("A plain reading of the California exemption scheme provides that ... the determination of the amount of an exemption shall be made by application of the exemption statutes in effect at the time the judgment creditor's lien was created") (citing Cal. Code Civ. Proc. Section 704.965 (West 1987)) and *In re Combs*, 166 B.R. 417, 418-19 n.3 (Bankr. N.D. Cal. 1994) ("If exemptions are claimed under state law, however, the state law may itself limit the debtor to exemption rights available on a date earlier than the petition date, such as the date a judgment lien was recorded on the real property") (citing Cal. Civ. Code. Proc. Code section 704.965) (West 1994)).

As of the preparation of this tentative ruling, Debtor has not filed a supplemental reply addressing this argument. There is no tentative ruling, but

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the parties should be prepared to address the authorities cited in Debtor's response (dkt. 108).

(vii) Property valuation

There is no tentative ruling, but the parties should be prepared to address how they propose to resolve their disputes re: valuation of the subject property – *e.g.*, (i) with an evidentiary hearing, (ii) with a court ruling based solely on the written record (to save costs, if all parties consent), (iii) through mediation, or (iv) through appointment of an appraiser (jointly selected by the parties/their appraisers) as the court's own expert under FRE 706. Note: Judge Bason requires valuations *at or near the petition date*. See *In re Gutierrez*, 503 B.R. 458 (Bankr. C.D. Cal. 2013).

(b) Monthly Operating Reports ("MORs")

(i) Continued failure to comply with reporting requirements

This Court's 4/27/21 tentative ruling (copied below) highlighted that Debtor has consistently filed her MORs late and cautioned Debtor that failure to timely satisfy her reporting obligations may result in the imposition of sanctions or other adverse consequences. See *also* LBR 2015-2(b)(2) (requiring MORs to be filed "not later than the 15th day of the month following expiration of the month which is the subject of the report") (emphasis added).

Despite that admonition, Debtor has continued to file her MORs late. See January MOR (dkt. 31, filed **4 days late**); February MOR (dkt. 45, filed **5 days late**); March MOR (dkt. 63, filed **12 days late**); April MOR (dkt. 69, timely filed); May MOR (dkt. 84, filed **3 days late**); June MOR (dkt. 90, filed **4 days late**); July MOR (dkt. 104, filed **8 days late**).

The tentative ruling is that if Debtor does not timely file her August MOR **by September 15, 2021** (and each MOR thereafter by the 15th day of the following month) this Court will issue orders to show cause directing Debtor and her counsel, Ms. Stella Havkin, to appear and show cause why they should not be sanctioned for their repeated and willful failure to comply with reporting requirements and this Court's orders.

(ii) Inaccurate or incomplete representations

Debtor's Lien Avoidance Motion (dkt. 70) admits that Debtor failed to make two postpetition payments with respect to the second lien on her residence. *Id.* at p.5, para. "(4)". But Debtor's MORs do not disclose those

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missed payments or explain why she has been unable to make those payments. See January MOR (dkt. 31, p.2); February MOR (dkt. 45, p.2); March MOR (dkt. 63, p.2); April MOR (dkt. 69, p.2); May MOR (dkt. 84, p.2); June MOR (dkt. 90, p.2), July MOR (dkt. 104, p.2).

Debtor is cautioned that MORs need to be prepared carefully and include all relevant information available to keep this Court and parties in interest apprised of Debtor's financial affairs. Full and timely disclosures are the *quid pro quo* to being a debtor in bankruptcy and receiving the benefits available to a debtor-in-possession under the Bankruptcy Code.

Debtor should be prepared to address what else is missing or inaccurate in her MORs.

(2) Dates/procedures. This case was filed on 1/19/21 .

(a) Bar date: 3/30/21 per General Order 20-01 (70 days after petition date in Subchapter V cases) (DO NOT SERVE any notice: one has already been sent, see dkt. 11).

(b) Procedures order: dkt. 8 (timely served, dkt. 12)

(c) AmPlan/AmDisclosure Statement: TBD

(d) Continued status conference: 9/28/21 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone**. You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the

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posted tentative rulings). Unless otherwise stated, appearances via CourtCall
are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Mrudula Kothari

Represented By
Stella A Havkin

Trustee(s):

Susan K Sefflin (TR)

Pro Se

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2:21-15809 Jose Guillermo Ontiveros, Jr.

Chapter 11

#6.00 Status conference re: Chapter 11 case

Docket 1

Tentative Ruling:

Appearances required by counsel for Debtor and by Debtor(s) themselves.

(1) Current issues

(a) Debtor's Motion to for Order Setting a Budget for the use of the Debtor's Cash and Postpetition Income (dkt. 14), no opposition on file

Debtor's income and expense projection (dkt. 14, Ex.A, at PDF p.7) shows monthly losses from two rental properties. One (the Anzac property) is addressed in Debtor's status report (dkt. 21), which explains that Debtor is attempting to evict the former owner. But the other, at 1763 108th St, appears to be a rental property with no such explanation and with a monthly loss of \$1,041.00 from the property (\$2,520.00 income - \$3,561.00 expenses = -\$1,041.00). See *also* Cash Collateral Motion (dkt.19, p.9, last line) (showing -\$1,041.00 net income).

Why is Debtor proposing to retain this money-losing property?

Subject to adequately addressing the foregoing issue, the tentative ruling is to grant the motion.

(b) Debtor's Motion for Order Authorizing Use of Cash Collateral (dkt. 15), no opposition on file

Subject to the same issues as with the Budget motion, the tentative ruling is to grant this Cash Collateral motion.

Proposed orders: Debtor is directed to lodge proposed orders on each of the foregoing motions via LOU within 7 days after the hearing date, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

(2) Dates/procedures. This case was filed on 7/19/21.

(a) Bar date: 11/16/21 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

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(b) Procedures order: dkt. 6 (served, dkt. 16, but not timely)

(c) Plan/Disclosure Statement: file by 1/14/22

(d) Continued status conference: 10/12/21 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone**. You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

Jose Guillermo Ontiveros Jr.

Represented By
Onyinye N Anyama

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#7.00 Hrg re: Motion in individual chapter 11 case for
order authorizing use of cash collateral

Docket 15

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 6,
8/31/21 at 1:00 p.m.).

Party Information

Debtor(s):

Jose Guillermo Ontiveros Jr.

Represented By
Onyinye N Anyama

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2:21-15809 Jose Guillermo Ontiveros, Jr.

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#8.00 Hrg re: Motion in Individual Ch 11 Case for Order Pursuant to 11 U.S.C. Sec. 363 Setting Budget for Interim Use of Estate Property as Defined in 11 U.S.C. Sec. 1115

Docket 14

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 6, 8/31/21 at 1:00 p.m.).

Party Information

Debtor(s):

Jose Guillermo Ontiveros Jr.

Represented By
Onyinye N Anyama

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2:21-11676 Cynthia C. Rodriguez

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#9.00 Cont'd Status Conference re: Chapter 11 Case
fr. 3/23/21, 4/27/21, 5/11/21, 6/29/21

Docket 1

Tentative Ruling:

Tentative Ruling for 8/31/21:

Continue as set forth below. Appearances are not required on 8/31/21.

(1) Current issues

(a) Untimely status report and MOR

This Court's adopted 6/29/21 tentative ruling set a deadline of 8/17/21 for Debtor to file a status report, but Debtor did not file her status report until 8/23/21 (dkt. 79). Local Bankruptcy Rule 2015-2(b)(2) requires MORs to be filed "not later than the 15th day of the month following expiration of the month which is the subject of the report." (emphasis added). Debtor did not file her July MOR until 8/23/21 (dkt. 79, 8 days late).

Debtor is cautioned that failure to timely comply with all obligations in future may result in adverse consequences.

(2) Dates/procedures. This case was filed on 3/2/21.

(a) Bar date: 6/16/21 (dkt. 39) (not timely served, dkt. 46)

(b) Procedures order: dkt.18 (timely served, dkt.25)

(c) Plan/Disclosure Statement: file by 9/28/21 (see dkt. 75) (DO NOT SERVE - except on the U.S. Trustee). See the **revised** "Procedures of Judge Bason" (available at www.cacb.uscourts.gov) (search for "Chapter 11: Plan").

(d) Continued status conference: 10/12/21 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at

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www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Cynthia C. Rodriguez

Represented By

Mufthiha Sabaratnam

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2:20-14175 Tea Station Investment Inc.

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#10.00 Cont'd hrg re: Debtor's Motion Objecting to Proof of Claims of Baodi Zhou, or in the Alternative, Motion to Estimate Claims fr. 04/27/21, 5/4/21, 6/15/21, 8/3/21

Docket 184

Tentative Ruling:

Tentative Ruling for 8/31/21:

Please see the tentative ruling for the status conference (Calendar No. 11, 8/3/21 at 1:00 p.m.).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Tea Station Investment Inc.

Represented By
Leslie A Cohen

Movant(s):

Tea Station Investment Inc.

Represented By
Leslie A Cohen
Leslie A Cohen

Trustee(s):

John-Patrick McGinnis Fritz (TR)

Pro Se

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2:20-14175 Tea Station Investment Inc.

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#11.00 Cont'd Status Conference re: Chapter 11 Case
fr. 7/28/20, 9/1/20, 9/15/20, 9/29/20, 12/22/20,
1/26/21, 3/9/21, 4/6/21, 04/27/21, 5/4/21, 6/1/21,
6/15/21, 8/3/21

Docket 15

Tentative Ruling:

Tentative Ruling for 8/31/21:

This Court anticipates posting a tentative ruling, or issuing a written decision, at a later time.

Tentative Ruling for 8/3/21:

Appearances required.

(1) Current issues

(a) Debtors' Motion Objecting to Proof of Claims of Baodi Zhou, or in the Alternative, Motion to Estimate Claims (the "Claim Objection," dkt. 184), interim Order (dkt. 226), Debtors' Supplement (dkt. 234-37), Claimant Ms. Baodi Zhou's Brief (dkt. 245), Debtors' Reply (dkt. 256-59), Order Assigning Matter to Mediation (dkt. 268), Mediator's report (no settlement) (dkt. 275)

The tentative ruling is to take this matter under submission for this Court to make whatever interim or final orders are appropriate on the record presented to date, and to set a continued hearing contemporaneous with the continued status conference (see part "(2)(d)" below).

(2) Dates/procedures. This case was filed on 5/4/20 and converted from chapter 7 to chapter 11 on 7/1/20 (dkt.17). The petition was amended to elect Subchapter V on 7/14/20 (dkt.27). On 9/4/20 this Court ordered joint administration with affiliated debtors (dkt.64).

- (a) Bar date: (i) Investment 9/9/20 (dkt. 40; timely served, dkt. 43);
Affiliated Debtors 11/10/20.
- (b) Procedures order: dkt.18 (timely served, dkt.20) (also timely served in each jointly administered case).
- (c) Plan (dkt. 137): hearing TBD.

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(d) Continued status conference: 8/31/21 at 1:00 p.m. No written status report required.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone**. You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 6/15/21:

Appearances required.

(1) Current issues

(a) Debtors' Motion Objecting to Proof of Claims of Baodi Zhou, or in the Alternative, Motion to Estimate Claims (the "Claim Objection," dkt. 184), interim Order (dkt. 226), Debtors' Supplement (dkt. 234-37), Claimant Ms. Baodi Zhou's Brief (dkt. 245), Debtors' Reply (dkt. 256-59)

There is no tentative ruling, but the parties are directed to address the issues raised in their papers, especially the following issues. This Court is particularly concerned whether Ms. Zhou has provided sufficient evidence that her own claims satisfy the commonality and typicality requirements for acting as a class representative, assuming without presently deciding that Rule 23 is applicable. See interim Order, dkt.226, Ex.A, at PDF p.7, part "(1)(c)" and *id.* sub-parts "(iii)" & "(iv)."

As Ms. Zhou recognizes, under Rule 23 her individual claims must have questions of law and/or fact in common with other putative class

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members that "predominate" over any questions affecting only individual members. See *generally* Zhou Brief (dkt.245), pp.28:10-29:6. Ms. Zhou asserts that Debtor Tea Station Investment, Inc. ("Debtor") harmed class members by (1) failing to pay for all hours worked or for overtime due to time rounding and time shaving, and failing to provide accurate wage statements due to such rounding and shaving and purportedly omitting correct employer information, (2) failing to provide compliant meal breaks and pay missed meal break premiums, and (3) failing to provide compliant rest breaks and pay missed rest break period premiums. Zhou Brief (dkt. 245), pp. 10:1–19:2, 21:6–26:13, *and* summary at pp.32:13-34:22. Therefore the issue is whether Ms. Zhou's own claims for those things have sufficient commonality and typicality of other putative class members' claims.

First, Ms. Zhou's brief does not highlight any specific evidence of her own payroll records, and specific instances in which she asserts rounding, time shaving, missed meal breaks, and missed rest breaks. True, she makes general assertions that might suffice for some issues - *e.g.*, at points her papers appear to assert that she *never* had rest breaks - but this Court remains concerned about the lack of greater specificity, such as allegations that although on day X she worked, say, 11 hours and 11 minutes, her paycheck and Debtor's records only reflected 8.0 hours. *But compare, e.g.*, Debtor Reply (dkt.256), p.7:3-4 (asserting, without citation to any evidence, that "[e]ven Zhou herself admitted at her deposition that she was always allowed to take a break whenever she requested or chose") (emphasis in original).

Second, Ms. Zhou offers few examples of other employees' specific instances of rounding, time shaving, missed meal breaks, and missed rest breaks, and she appears to make presumptions to fill in the gaps. This issue may also bear on the "numerosity" requirement under Rule 23.

If Ms. Zhou can overcome the foregoing issues, and otherwise qualifies as a class representative against Debtor, then this Court envisions a claim estimation process in which this Debtor would present its own rebuttal analysis and/or specific disputes with Ms. Zhou's choice of data and analysis, and the parties would focus their disputes on calculations not unlike those presented by Ms. Zhou at the end of her brief - *e.g.*, estimating 88 employees, with 1,671 days multiplied by an estimated 11 minutes and 15 seconds per day, to arrive at a claim of \$36,879.48 for "time rounding," etc. See Zhou Brief (dkt.245), pp.33:5-34:22. Each party would be able to present

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its own data, methodology, and analysis, and challenge the other party's data, methodology, and analysis, in a trial to determine how to estimate the claims.

This Court recognizes that the underlying data, methodology, and analysis might not be as rigorous as they would be if time and money were no object (the "scorched earth" litigation to which this Court previously has referred). See, e.g., Order (dkt.226), Ex.A, at PDF p.6, part "(1)(b)." For example, Ms. Zhou's statistical evidence was prepared not by a statistician or similar expert but by her own counsel. But the tentative ruling is that, given her counsel's apparent experience, this goes to the weight of the evidence, not its admissibility.

Similarly, although Ms. Zhou complains that the "thousands of pages of time and pay records" produced by Debtor (Zhou Brief, dkt. 245, p.16:22) are fractured, incomplete, and otherwise difficult to analyze (*id.*, p.32:16 & attached D. Grimes Decl., pp.2:16–4:28, Ex. 2, Ex. 15), there does not appear to be any evidence that Debtor has intentionally caused any spoliation of records. Ms. Zhou's counsel apparently was able to conduct his statistical analysis based on wage statements and other records for 125 employees provided by Debtor (D. Grimes Decl., dkt. 245, p.5:1–5), and presumably Debtor could use the same data to do its own analysis and/or to challenge Ms. Zhou's analysis.

Again, the foregoing claim estimation process would only apply if Ms. Zhou could overcome the commonality and typicality issues noted above, and if she otherwise could qualify as a class representative. In other words, this Court's discussion of the contemplated claim estimation process is only included for completeness, and should not be interpreted as any presumption that Ms. Zhou can assert claims for the class she seeks to represent.

Note: As for any claims by employees of Debtor's affiliates, the tentative ruling is that this issue is premature. Ms. Zhou only briefly asserts a reservation of rights, arguing that "each corporate entity is managed by the same group of three individuals – Tea Station founder Yu-Liang 'Jimmy' Huang, his wife Teresa Pan, and lieutenant Chi-Fu 'Abraham' Kao." Zhou Brief (dkt.245), p.8:11-13. But this Court has issued an order (dkt.226) limiting claims at this stage to Debtor, and the tentative ruling is that unless and until Ms. Zhou can establish claims against Debtor it would be premature to address potential claims against Debtor's affiliates.

Finally, the parties are directed to address what further deadlines or

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procedures to establish, if this Court does not issue a final ruling on Debtor's Claim Objection at this hearing. The tentative ruling is that any continued hearing on this Claim Objection would be contemporaneous with the continued Status Conference (see below).

(2) Dates/procedures. This case was filed on 5/4/20 and converted from chapter 7 to chapter 11 on 7/1/20 (dkt.17). The petition was amended to elect Subchapter V on 7/14/20 (dkt.27). On 9/4/20 this Court ordered joint administration with affiliated debtors (dkt.64).

- (a) Bar date: (i) Investment 9/9/20 (dkt. 40; timely served, dkt. 43);
Affiliated Debtors 11/10/20.
- (b) Procedures order: dkt.18 (timely served, dkt.20) (also timely served in each jointly administered case).
- (c) Plan (dkt. 137): hearing TBD.
- (d) Continued status conference: 7/20/21 at 1:00 p.m. No written status report required.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Tea Station Investment Inc.

Represented By
Leslie A Cohen

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Movant(s):

Tea Station Investment Inc.

Represented By
Leslie A Cohen
Leslie A Cohen

Trustee(s):

John-Patrick McGinnis Fritz (TR)

Pro Se

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2:21-10956 LAX In-Flite Services, LLC

Chapter 11

Adv#: 2:21-01079 Gonzales et al v. LAX In-Flite Services, LLC

#12.00 Cont'd status conference re: Complaint for determination that debt is nondischargeable (11 U.S.C. sections 523(a)(6); 523(a)(7))
fr. 7/6/21

Docket 1

Tentative Ruling:

Tentative Ruling for 8/31/21:

Please see the tentative ruling for the main case status conference (Calendar No. 13, 8/31/21 at 1:00 p.m.).

Revised Tentative Ruling for 7/6/21:

Continue to 8/31/21 at 1:00 p.m. per stipulation (adv. dkt. 6) and order thereon. Appearances are not required on 7/6/21.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 7/6/21:

Appearances required.

- (1) Current issues
 - (a) Background

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, August 31, 2021

Hearing Room 1545

1:00 PM

CONT...

LAX In-Flite Services, LLC

Chapter 11

No Answer is on file. Nor are there any motions to dismiss or other pleadings on file.

That said, the tentative ruling is that the lack of response is not dispositive because the docket in this adversary proceeding does not reflect proper service of the summons, Complaint, etc. on Debtor to the attention of an officer, a managing or general agent, or to any other agent authorized by appointment of law (Rule 7004(b)(3), Fed. R. Bankr. P.), at an address that appears to be reasonably calculated to reach the officer (*e.g.*, corporate headquarters). Note: Judge Bason does not require that a specific individual be named -- "Attn: Officer or Managing/General Agent" is sufficient.

(b) The Complaint fails to state a claim for relief under section 523(a)

The tentative ruling is to dismiss the Complaint on this Court's own motion, under Rule 12(b)(6) (Fed. R. Civ. P.) (incorporated by Rule 7012, Fed. R. Bankr. P.), for failure to state a claim for relief. The two claims asserted in the Complaint (dkt.1, 3) are brought under 11 U.S.C. 523(a)(6) or (a)(7); but section 523(a), by its express language, only applies to **individual** debtors and not **corporate** debtors such as LAX In-Flight Services, LLC. See *In re Gordon's Music & Sound, Inc.*, 2012 Bankr. LEXIS 6133, at *2, 2012 WL 8250009, at *1-2 (Bankr. E.D. Cal. Oct. 12, 2012) (dismissing 523(a)(6) claim against corporate debtor and reasoning that "Congress clearly did not intend the term 'corporate debtor' to be used interchangeably with the term 'individual debtor'" (internal quotations and citations omitted); see also *Omar v. Sea-Land Serv. Inc.*, 813 F.2d 986, 991 (9th Cir. 1987) (citing *Wong v. Bell*, 642 F.2d 359, 361-62 (9th Cir. 1981) ("A trial court may dismiss a claim sua sponte under Fed. R. Civ. P. 12(b)(6) ... [s]uch dismissal may be made without notice where the claimant cannot possibly win relief").

The tentative ruling is to dismiss with leave to amend, because the factual allegations in the Complaint, and its assertions about asserted violations of nonbankruptcy law, might be the basis to assert a cognizable claim. The tentative ruling is (i) to set a deadline of 7/20/21 for Plaintiffs to file a first amended complaint ("FAC") and serve their summons, FAC, etc. on Defendant/Debtor; and to set a continued status conference for 8/17/21 at 1:00 p.m., with a joint status report on this Court's Local Form due 8/3/21.

In addition, the parties are directed to address how to this matter can best be handled efficiently. For example, is mandatory mediation appropriate?

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CONT... LAX In-Flite Services, LLC

Chapter 11

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Party Information

Debtor(s):

LAX In-Flite Services, LLC

Represented By
Jeremy H Rothstein

Defendant(s):

LAX In-Flite Services, LLC

Pro Se

Plaintiff(s):

Ruth Gonzales

Represented By
Moises S Bardavid

Andres Braubert

Represented By
Moises S Bardavid

Guillermo Gutierrez

Represented By
Moises S Bardavid

Trustee(s):

John-Patrick McGinnis Fritz (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Courtroom 1545 Calendar**

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Hearing Room 1545

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2:21-10956 LAX In-Flite Services, LLC

Chapter 11

#13.00 Cont'd Status Conference re: Chapter 11 Case
fr. 02/25/21, 03/02/21, 4/6/21, 4/27/21, 5/11/21,
5/19/21, 5/26/21, 6/15/21, 6/29/21, 7/6/21, 7/20/21

Docket 1

Tentative Ruling:

Tentative Ruling for 8/31/21:

Appearances required.

(1) Current issues

(a) Debtor's plan (dkt. 89), or other "exit strategy" for this case

This Court's 7/20/21 tentative ruling (copied below) deferred setting a deadline for Debtor to file an amended plan or addressing any other exit strategy (e.g., dismissal) until after the sale has closed. Debtor's July MOR (dkt. 157) reflects a \$225,000.00 payment from Pacific Airline Linen Services (*id.*, at PDF p.7), so it appears the sale has closed. There is no tentative ruling but Debtor should be prepared to address whether this Court should set a deadline to file an amended plan or provide an update on Debtor's exit strategy for this case.

(b) Gonzales et al v. LAX In-Flite Services (2:21-ap-01079-NB)

This matter was continued to this date to allow time for the parties to engage in settlement discussions (adv. dkt. 6, 8). There is no tentative ruling. The parties should be prepared to provide an update on the status of those discussions. If this matter continues to be active, the tentative ruling is to continue it concurrent with the continued status conference in the bankruptcy case (see below).

(2) Dates/procedures. This case was filed on 2/5/21.

(a) Bar date: 4/16/21 per General Order 20-01 (70 days after petition date in Subchapter V cases) (DO NOT SERVE any notice: one has already been sent, see dkt.16).

(b) Procedures order: dkt.3 (timely served, dkt.9)

(c) AmPlan/AmDisclosure Statement: See above.

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CONT...

LAX In-Flite Services, LLC

Chapter 11

(d) Continued status conference: 9/28/21 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone**. You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

Tentative Ruling for 7/20/21:

Appearances are not required on 7/20/21.

(1) Current issues

(a) Debtor's motion to sell substantially all of its assets ("Sale Motion," dkt. 61-65, 67), Opposition of Ruth Gonzales, Braubert Andres, and Guillermo J. Lopez Gutierrez ("Gonzales et al.") (dkt. 77), SubchapterV Trustee's response (dkt. 83), Joinder of Samuel Pearce Trust ("Pearce") (dkt. 86), Debtor's reply to Gonzales et al. (dkt. 88), Debtor's reply to SubchapterV Trustee's response (dkt. 95), Schedules to APA (dkt. 99), Stipulation/Order continuing hearing (dkt. 102, 104), Stipulation re form of APA and form of order (the "Global Stipulation," dkt. 120)

The tentative ruling is to grant the Sale Motion as provided in the Global Stipulation, and for the reasons set forth in this Court's 5/19/21 tentative ruling (copied below) and the additional reasons stated on the record

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CONT... LAX In-Flite Services, LLC
at the prior hearings on the Sale Motion.

Chapter 11

Proposed order: Debtor is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

(b) Debtor's plan (dkt. 89), or other "exit strategy" for this case

This Court notes that Debtor filed what appears to be a placeholder plan on 5/6/21 (dkt. 89). The tentative ruling is to not set a deadline for Debtor to file an amended plan, nor to address any other exit strategy (e.g., dismissal), until after the sale has closed.

(2) Dates/procedures. This case was filed on 2/5/21.

(a) Bar date: 4/16/21 per General Order 20-01 (70 days after petition date in Subchapter V cases) (DO NOT SERVE any notice: one has already been sent, see dkt.16).

(b) Procedures order: dkt.3 (timely served, dkt.9)

(c) AmPlan/AmDisclosure Statement: See above.

(d) Continued status conference: 8/31/21 at 1:00 p.m., concurrent with other matters. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone.** You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval

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CONT... LAX In-Flite Services, LLC

Chapter 11

or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

LAX In-Flite Services, LLC

Represented By
Jeremy H Rothstein

Trustee(s):

John-Patrick McGinnis Fritz (TR)

Pro Se

**United States Bankruptcy Court
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Tuesday, August 31, 2021

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1:00 PM

2:20-11333 Edmund Lincoln Anderson

Chapter 11

#14.00 Cont'd Status Conference re: Chapter 11 Case
fr. 3/3/20, 3/10/20, 4/7/20, 4/21/20, 6/2/20, 7/14/20,
7/28/20, 8/18/20, 9/1/20, 10/6/20, 10/27/20, 12/1/20,
1/5/21, 2/9/21, 03/02/21, 3/23/21, 4/27/21, 5/11/21,
6/1/21, 6/15/21, 8/17/21

Docket 1

***** VACATED *** REASON: This matter will be heard during the 2:00
p.m. calendar. See Cal. No. 2, 8/31/21 at 2:00 p.m.**

Tentative Ruling:

Party Information

Debtor(s):

Edmund Lincoln Anderson

Represented By
Stella A Havkin

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2:18-24302 GL Master Inc

Chapter 7

#1.00 Order directing Thomas J. Polis, Esq. to show cause why this court should not impose sanctions against him

Docket 337

***** VACATED *** REASON: Order granting motion to cont'd OSC to 9/14/201 at 2:00 p.m. [dkt. 345]**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

GL Master Inc

Represented By
Thomas J Polis

Trustee(s):

Edward M Wolkowitz (TR)

Represented By
Juliet Y Oh

**United States Bankruptcy Court
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Hearing Room 1545

2:00 PM

2:20-11333 Edmund Lincoln Anderson

Chapter 11

#2.00 Cont'd status conferene re: Chapter 11 Case
fr. 3/3/20, 3/10/20, 4/7/20, 4/21/20, 6/2/20, 7/14/20,
7/28/20, 8/18/20, 9/1/20, 10/6/20, 10/27/20, 12/1/20,
1/5/21, 2/9/21, 03/02/21, 3/23/21, 4/27/21, 5/11/21,
6/1/21, 6/15/21, 8/4/21, 8/17/21

Docket 1

Tentative Ruling:

Tentative Ruling for 8/31/21:

This Court anticipates posting a tentative ruling, or issuing a written decision,
at a later time.

Party Information

Debtor(s):

Edmund Lincoln Anderson

Represented By
Stella A Havkin

**United States Bankruptcy Court
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2:00 PM

2:19-23664 Liat Talasazan

Chapter 7

#3.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 3/2/21, 5/11/21, 6/29/21, 7/20/21, 8/3/21

MICHAEL TREMBLAY, trustee
vs
DEBTOR

Docket 504

Tentative Ruling:

Tentative Ruling for 8/31/21:

Please see the tentative ruling for the status conference (Calendar No. 5, 8/31/21 at 2:00 p.m.).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Liat Talasazan

Represented By
Giovanni Orantes
Luis A Solorzano

Movant(s):

Michael Tremblay, Trustee

Represented By
David I Brownstein

Trustee(s):

Caroline Renee Djang (TR)

Represented By
David Wood

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2:00 PM

2:19-23664 Liat Talasazan

Chapter 7

#4.00 Cont'd hrg re: Motion for Turnover of Property of the Estate
Pursuant to 11 U.S.C. § 542 35th Street Properties
fr 3/23/21, 4/6/21, 4/27/21, 5/11/21, 6/29/21, 7/20/21,
8/3/21

Docket 543

Tentative Ruling:

Tentative Ruling for 8/31/21:

Please see the tentative ruling for the status conference (Calendar No. 5,
8/31/21 at 2:00 p.m.).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Liat Talasazan

Represented By
Giovanni Orantes
Luis A Solorzano

Trustee(s):

Caroline Renee Djang (TR)

Represented By
David Wood

**United States Bankruptcy Court
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2:19-23664 Liat Talasazan

Chapter 7

#5.00 Cont'd Status Conference re: Chapter 7 Case
fr. 1/28/20, 2/18/20, 3/3/20, 3/10/20, 03/31/20,
4/7/20, 5/12/20, 5/19/20, 6/2/20, 6/16/20, 7/28/20,
8/18/20, 9/1/20, 9/15/20, 9/29/20, 10/27/20, 12/1/20,
12/22/20, 2/9/21, 03/02/21, 3/23/21, 4/6/21, 5/11/21,
6/29/21, 7/20/21, 8/31/21

Docket 49

Tentative Ruling:

Tentative Ruling for 8/31/21:
Appearances required.

(1) Current issues

(a) Subchapter V Trustee's Motion for turnover of 35th Street Properties, accounting re Jefferson property, etc. (dkt. 543, 544), Debtor's response (dkt. 562), Oxygen's joinder (dkt. 568), Subchapter V Trustee's reply (dkt. 569, 570), Order granting motion (dkt. 578)

See below.

(b) Tremblay's motion for relief from stay (dkt. 504), Order denying in substantial part and granting limited relief (dkt. 559), Tremblay's status reports (dkt. 583, 655)

See below.

(c) All pending matters

This Court will address with the parties the current status and future proceedings. The Trustee should be prepared to provide an update on the status of the Laurel Property escrow.

(d) United States Trustee v. Talasazan [2:21-ap-01114-NB]

Continue to 1/4/22 at 11:00 a.m. as set forth in the tentative ruling for this matter (See Calendar No. 6, 8/31/21 at 2:00 p.m.)

(2) Deadlines/dates. This case was filed on 11/20/19, converted from chapter

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CONT...

Liat Talasazan

Chapter 7

13 to chapter 11 on 1/2/20, designated by Debtor as a Subchapter V case on 3/2/20 (dkt.128), and converted to chapter 7 on 12/1/20 (dkt. 412).

(a) Continued status conference: 9/28/21 at 2:00 p.m. No written status report required.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone**. You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

[PRIOR TENTATIVE RULINGS OMITTED (see Memorialization of Tentative Rulings, dkt.208 (filed 5/19/20) and dkt.303 (filed 9/21/20). See also Order Denying Motion for Stay (dkt.441, as amended by dkt.442).]

Party Information

Debtor(s):

Liat Talasazan

Represented By
Giovanni Orantes
Luis A Solorzano

Trustee(s):

Caroline Renee Djang (TR)

Pro Se

**United States Bankruptcy Court
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2:00 PM

2:19-23664 Liat Talasazan

Chapter 7

Adv#: 2:21-01114 United States Trustee (LA) v. Talasazan

#6.00 Status Conference re: Complaint to Deny the Debtor's Discharge Pursuant to 11 U.S.C. Sections 727(a)(6)(A) and (a)(2)(B)

Docket 1

Tentative Ruling:

Appearances required.

(A) Current issues

This Court has reviewed the parties' joint status report (adv. dkt. 10) and the other filed documents and records in this adversary proceeding.

(B) Standard requirements

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority

The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this Bankruptcy Court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. See generally *Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). See generally *In re AWTR*

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CONT...

Liat Talasazan

Chapter 7

Liquidation, Inc., 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation [Intentionally omitted]

(3) Deadlines

This adversary proceeding has been pending since 6/23/21. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Joinder of parties/amendment of pleadings-deadline: 11/16/21

Discovery cutoff (for completion of discovery): 11/30/21

Expert(s) - deadline for reports: N/A

Expert(s) - discovery cutoff (if different from above): N/A

Dispositive motions to be heard no later than: 1/4/22

Joint Status Report: 12/21/21

Continued status conference: 1/4/22 at 2:00 p.m.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers, including direct testimony by declaration unless excused: TBD

Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's Procedures, **hearings are now simultaneously (1) IN PERSON in the courtroom, (2) via ZOOMGOV video, and (3) via ZOOMGOV telephone**. You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

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CONT...

Liat Talasazan

Chapter 7

Party Information

Debtor(s):

Liat Talasazan

Represented By
Giovanni Orantes
Luis A Solorzano

Defendant(s):

Liat Talasazan

Pro Se

Plaintiff(s):

United States Trustee (LA)

Represented By
Noreen A Madoyan

Trustee(s):

Caroline Renee Djang (TR)

Represented By
David Wood